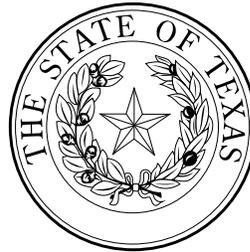


**Report to the
75th Legislature**



**Texas Sunset
Advisory Commission**

1997

TEXAS SUNSET ADVISORY COMMISSION

Membership

Representative Patricia Gray, Chair

Senator Ken Armbrister, Vice-Chair

Representative Fred Bosse

Senator J.E. "Buster" Brown

Representative Allen Hightower

Senator Frank Madla

Representative Barry Telford

Senator David Sibley

Mike Sims, Public Member

Dr. Isabella Cunningham, Public Member

Joey Longley
Director

In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

Texas Sunset Advisory Commission

**Report to the
75th Legislature**

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Summary



Summary of the 1996 - 1997 Biennium

The Commission

The Sunset Commission began the biennium with a full complement of ten members, five appointed by the Speaker of the House of Representatives and five appointed by the Lieutenant Governor. The five members appointed by Speaker Laney included:

Representative Layton Black, Chair
Representative Patricia Gray
Representative Barry Telford
Representative Allen Hightower
Mike Sims, Public Member

The five members appointed by Lieutenant Governor Bullock included:

Senator Ken Armbrister, Vice-chair
Senator David Sibley
Senator J.E. "Buster" Brown
Senator Frank Madla
Dr. Isabella Cunningham, Public Member

During the biennium, Representative Black resigned from the House of Representatives. As a result, Speaker Laney designated Representative Gray to chair the Commission and named Representative Fred Bosse to fill the vacant position on the Commission.

In addition, at the beginning of the biennium, the day-to-day leadership of the Sunset staff changed. John Moore left to take a position with Lieutenant Governor Bullock's staff and the Commission named Joey Longley as the new Director.

Agency Reviews

Twenty-one agencies were scheduled for Sunset review during the interim between legislative sessions. Sunset staff performed extensive evaluations of these agencies and issued a series of reports throughout this period. These reports contained more than 96 recommendations to improve agency operations, save tax dollars and make government more accessible to the people of the state.

Each agency review sought to identify opportunities for improved service delivery, improved fiscal considerations, and program coordination and consolidation. The recommendations of the Sunset Commission will help many agencies under review this

cycle take advantage of these opportunities by proposing solutions to:

- improve agencies' service delivery systems;
- improve stewardship and management of state funds, particularly regarding management. All agencies under review with significant contracting activities include recommendations that require improved practices focusing on contractor performance and accountability;
- promote program cooperation and consolidation and the shifting of program control to the local level;
- promote a more flexible fiscal policy that enables agencies to leverage their investments to access more state, local, and federal funds.
- ensure consistent and proven effective regulatory policy across all agencies with significant regulatory functions; and
- ensure that agencies operate in a manner that is open and accountable to the public.

During the 17 months from September 1995 through January 1997, the Sunset Commission held nine public meetings to review staff recommendations and hear suggestions from the agencies and the general public on how to improve state government. Based on this review of agencies' operations and policies, the Commission recommended the continuation of 19 agencies with significant improvements. The Commission recommended that one agency, the Sex Offender Treatment Council be merged into the Texas Department of Health.

An unusual circumstance emerged regarding the continuation of one other agency, the Texas Turnpike Authority. Current law provides for the Turnpike Authority to be merged with the Texas Department of Transportation in 1997 if feasible to do so. Instead, the Commission recommended to establish a successor agency to the Texas Turnpike Authority as an independent division of the Texas Department of Transportation and to authorize a regional turnpike authority formed by Collin, Dallas, Denton and Tarrant Counties.



The chart on the next page highlights the Sunset Commission's basic decisions regarding the continuation of the agencies under Sunset review, as well as the five-year fiscal impact for the Sunset recommendations. The material following the chart highlights the Commission's major recommendations for the agencies reviewed this biennium.

Following this summary material, the body of the report describes all Sunset recommendations regarding each agency, and provides additional detail on the fiscal implications of the recommendations.

In addition to the agency specific recommendations, the Sunset Commission applied its across-the-board recommendations to the agencies reviewed. These recommendations are a set of standard provisions that have been developed by the Commission over time as it has identified common problems during reviews of agencies. Appendix 1 explains these recommendations.



Summary of Sunset Commission Action 1996 - 1997		
Agency	Action	Five-Year Fiscal Impact 1998 - 2002
1. Texas State Board of Acupuncture Examiners	Continue	No fiscal impact
2. Adjutant General's Department	Continue	No fiscal impact
3. Texas Commission on Alcohol and Drug Abuse	Continue	No fiscal impact
4. National Guard Armory Board	Continue	No fiscal impact
5. Automobile Theft Prevention Authority	Continue	\$763,694
6. Credit Union Commission	Continue	No fiscal impact
7. Criminal Justice Policy Council	Continue	No fiscal impact
8. Texas Commission on Fire Protection	Continue	\$909,930
9. Department of Information Resources	Continue	(\$435,915)
10. Commission on Jail Standards	Continue	No fiscal impact
11. Texas Juvenile Probation Commission	Continue	No fiscal impact
12. Commission on Law Enforcement Officers Standards and Education	Continue	No fiscal impact
13. Board of Pardons and Parole	Continue	(\$283,375)
14. State Preservation Board	Continue	No fiscal impact
15. Department of Protective and Regulatory Services	Continue	\$318,880,000
16. Texas Public Finance Authority	Continue	No fiscal impact
17. Texas Racing Commission	Continue	\$2,125,000
18. Council on Sex Offender Treatment	Transfer	\$350,000
19. Texas Department of Transportation	Continue	No fiscal impact
20. Texas Turnpike Authority	Transfer	No fiscal impact
21. Texas Youth Commission	Continue	No fiscal impact



Major Recommendations Adopted by the Sunset Advisory Commission

Texas Commission on Alcohol and Drug Abuse

- Require TCADA to develop a statewide plan for substance abuse service delivery.
- Improve the TCADA funding system to ensure that cost effective, quality services are available across the state.
- TCADA should study implementation of a payment method that results in the highest quality services at the best price.
- Improve accountability for state funds through adequate contracting and performance measurement.

Automobile Theft Prevention Authority

- Continue the Automobile Theft Prevention Authority within the Texas Department of Transportation and clarify the agencies' administrative relationship.
- Maximize earnings on auto theft prevention assessments through twice-yearly collections.

Credit Union Commission

- Increase the public perspective of the Credit Union Commission by requiring a public member majority.
- Continue the Credit Union Commission for four years to coincide with the Sunset review of the Finance Commission.

Criminal Justice Policy Council

- Abolish the Criminal Justice Policy Council Board and improve the agency's accountability.

Commission on Fire Protection

- Improve the Commission's rulemaking ability by providing the Commission full authority to propose, modify, adopt, or reject rules under its jurisdiction and revise the process used to select members of the Commission's advisory committees.
- Restructure the Commission's membership to add three members of the general public to ensure the public's interests are represented.

- Combine paid and volunteer certification programs into one certification program to reduce duplication.

Department of Information Resources

- Revise the statewide planning cycle for information resources to better coincide with the state's strategic budgeting cycle.
- Expand DIR's role in providing quality assurance assistance to state agencies.
- Better address rapidly changing state agency telecommunications needs by focusing the duties of the Telecommunications Planning Group.
- Enhance the training and role of state agencies' information resources managers.

Texas Commission on Jail Standards

- Close a loophole that allows private facilities incarcerating prisoners from other states to escape regulation.

Texas Juvenile Probation Commission and Texas Youth Commission

- Require TJPC to adopt specific reporting and performance standards for local probation departments.
- Require TYC and TJPC to jointly develop pilot programs to pool state and local funds for counties to provide juvenile services.
- Strengthen the state's ability to identify the mental health needs of delinquent youth by requiring local departments to use standard mental health screening instruments.

Texas Commission on Law Enforcement Standards and Education

- Require TCLEOSE to base the schedule of academy inspections on performance and risk criteria.

Board of Pardons and Paroles

- Restructure the Board of Pardons and Paroles to improve its ability to develop and implement parole policies.



- Restudy the Board of Pardons and Paroles in two years in conjunction with the Department of Criminal Justice Sunset review.

Department of Protective and Regulatory Services

- Separate investigations from service delivery where possible within the department to increase protection of and services to victims of abuse and neglect.
- Authorize PRS to establish a flexible response system that provides for a full investigation of reports of serious abuse or neglect but allows for less serious reports to be addressed through family assessment and intervention services.
- Remove obstacles to allow quicker permanent placement for children in PRS conservatorship by setting a 12-month deadline for PRS to seek termination of parental rights or return a child to the family.
- Improve the adoption process through better coordination of adoptions and increased use of private adoption agencies.
- Improve contract management by requiring every contract for the purchase of client services to include clearly defined goals, measurable outcomes, and sanctions or penalties for noncompliance.
- Improve investigations of abuse, neglect, and exploitation in MHMR facilities and community centers by allowing PRS to prioritize investigations and requiring PRS and MHMR to develop and implement a common system of tracking cases.

Texas Public Finance Authority

- Consolidate the bonding authority of agencies and universities with small and infrequent state bond issuances into TPFA

Texas Racing Commission

- Improve the way the Commission conducts business by eliminating the two-panel structure and increasing business and agribusiness expertise requirements of the members.
- Focus the Commission exclusively on regulation of the racing industry, not on promotion.

- Improve racetrack inspection efforts and broaden agency enforcement authority to address noncompliance.
- Increase the Commission's oversight of racing industry programs funded through provisions of the Texas Racing Act.
- Improve the integrity of pari-mutuel racing by making top track regulatory officials directly responsible to the state.
- Continue the Texas Racing Commission for eight years and require all rules to be evaluated and either re-adopted or repealed by January 1, 2002.

Council on Sex Offender Treatment

- Consolidate the regulatory functions of the Council on Sex Offender Treatment with the Texas Department of Health and make other improvements in the state's approach to the regulation of sex offender treatment providers.

Texas Department of Transportation

- Authorize the Department's use of State Infrastructure Banks to take full advantage of federal highway funding flexibility.
- Remove obstacles to automating the Department's contract bidding system.
- Use the Council on Competitive Government to help TxDOT balance in-house and contracted engineering services.
- Require TxDOT and the Comptroller to study moving the point-of-accountability for collecting motor fuels taxes.

Texas Turnpike Authority

- Consolidate the functions of the Texas Turnpike Authority within TxDOT as a separate independent division and authorize the creation of a four-county regional toll authority in north Texas.



Fiscal Impact Summary

The Sunset Commission's recommendations will have a positive fiscal impact. Preliminary estimates show a net gain/savings to the state as follows.

FY 1998-99 (2 years)	FY 1998-2002 (5 years)
\$124,925,730*	\$322,309,334*

* Recommendations affecting the Texas Department of Protective and Regulatory Services accounts for approximately \$60 million per year of these estimated savings. The Sunset Commission recommended that the Legislature reallocate these savings within the Department for client services.

In addition, a substantial number of the Sunset Commission's recommendations could result in savings to the state; however, these amounts could not be estimated. Such recommendations would result in more effective and efficient use of public funds, provide mechanisms to improve overall state service quality and availability, and allow for the redirecting of limited state resources to areas of need.

**Sunset Commission
Recommendations**



TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS

<p><u>General Information</u></p> <p>Statutory Reference Article 4495b, Subchapter F, Vernon's Texas Civil Statutes</p> <p>Board Composition 9 members</p> <p>Agency Head Dr. Bruce Levy, Board of Medical Examiners</p> <p>Appropriation (FY 1996) \$64,150 (funds appropriated to the Board of Medical Examiners to assist the Board of Acupuncture Examiners)</p> <p>Employees (FY 1996) 0 (administrative support provided by the Board of Medical Examiners)</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● establishes minimum educational and training standards for the practice of acupuncture in Texas ● issues licenses to qualified applicants ● sets practice standards for the profession ● investigates complaints and takes enforcement action
<p><u>Board Members</u></p> <p>Gus Garcia, Presiding Officer (Austin) Shen Ping Liang, Ph.D., Assistant Presiding Officer (Houston) Cheng Ming Chang (San Antonio) Lawrence Woon-Chung Chan (Amarillo) Nancy M. Land (Crockett) Lisa Ping-Hui Lin (Austin) Stephen M. Taylor, D.O. (Weatherford) Annette M. Zaharoff, M.D. (San Antonio) Mary Rebecca Atchley (Lubbock)</p>	

RECOMMENDATIONS

1. Continue the Texas State Board of Acupuncture Examiners.

Change in Statute

- **Continue the Texas State Board of Acupuncture Examiners for eight years.**

This recommendation would continue the state regulation of acupuncture in Texas, thereby protecting

the health and welfare of the public by allowing them to verify fully qualified practitioners. This recommendation would result in the agency having a new Sunset date of September 1, 2005, the same as all the other health care licensing agencies currently under Sunset Review. The Board's current administrative and advisory relationship with the Board of Medical Examiners would be continued.



Fiscal Impact

If the Legislature continues the current functions of the Acupuncture Board, the fiscal year 1996 appropriation, approximately \$64,033, would continue to be required for its operation.

2. Broaden the Board's Standard Licensing Authority to Improve the Regulation of Acupuncturists.

Change in Statute

- **Standardize the regulation of acupuncture by granting the Board authority to:**
 - issue subpoenas,
 - require licensees to maintain a current address on file, and
 - issue temporary licenses.
- **Make the grounds for denial of an acupuncture license and for disciplinary action against an acupuncture licensee consistent with similar grounds that apply to physicians and physicians assistants licensed under the Medical Practice Act.**
- **Raise the criminal penalty for unlicensed practice of acupuncture from a Class A misdemeanor to a third degree felony.**

These recommendations would give the Acupuncture Board additional regulatory tools, available to other licensing Boards, necessary to effectively regulate the practice of acupuncture.

Fiscal Impact

This recommendation will not result in a fiscal impact to the state.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations will not result in a fiscal impact to the state.



Texas State Board of Acupuncture Examiners	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Provide for notification and information to the public concerning agency activities.
Update	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Not Applicable	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Update	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Modify	14. Require information to be maintained on complaints.
Not Applicable	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Not Applicable	16. Require development of an equal employment opportunity policy.
Not Applicable	17. Require the agency to establish career ladders.
Not Applicable	18. Require a system of merit pay based on documented employee performance.

Texas State Board of Acupuncture Examiners	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Apply	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
See Issue 2	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
See Issue 2	6. Authorize agencies to use a full range of penalties.
Update	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



ADJUTANT GENERAL'S DEPARTMENT

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	431.021 et. seq., Government Code	<ul style="list-style-type: none">● controls and administers the state's military forces, composed of the Army National Guard, the Air National Guard, and the Texas State Guard● maintains military preparedness to furnish forces to the nation in case of conflict● provides military support to assure safety and welfare of Texas citizens in case of civil disturbance or natural disaster
Board Composition	None	
Agency Head	Brigadier General Daniel James III, Adjutant General	
Appropriation (FY 1996)	\$19,263,321 (50.5% from federal funds, 49.5% from general revenue)	
Employees (FY 1996)	328	

RECOMMENDATION

1. Continue the Adjutant General's Department for 12 Years to Support the Texas National Guard.

Change in Statute

- Continue the Adjutant General's Department for 12 years.

This recommendation would result in the Adjutant General's Department having a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of Adjutant General's Department using the existing organizational structure, the Department's annual appropriations of about \$19 million in fiscal year 1996 would continue to be required for the operation of the agency.

Adjutant General's Department	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Not Applied	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Modify	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Not Applied	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Modify	5. Specify grounds for removal of a member of the policymaking body.
Modify	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Modify	7. Require training for members of policymaking bodies.
Not Applied	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Not Applied	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Not Applied	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Modify	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Apply	17. Require the agency to establish career ladders.
Apply	18. Require a system of merit pay based on documented employee performance.



Adjutant General's Department	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applied	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applied	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applied	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applied	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applied	5. Authorize the staggered renewal of licenses.
Not Applied	6. Authorize agencies to use a full range of penalties.
Not Applied	7. Specify disciplinary hearing requirements.
Not Applied	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applied	9. Require the policymaking body to adopt a system of continuing education.





TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	Health and Safety Code Section 461.003	<ul style="list-style-type: none"> ● develops, funds, and evaluates chemical dependency prevention, intervention, and treatment programs
Board Composition	6 members	<ul style="list-style-type: none"> ● approves facilities for court-committed clients
Agency Head	Terry Faye Bleier, Executive Director	<ul style="list-style-type: none"> ● funds services for compulsive gamblers
Appropriation (FY 1996)	\$127 million (includes federal funds, earned federal funds, and interagency contracts.)	<ul style="list-style-type: none"> ● licenses all chemical dependency facilities and counselors ● approves/certifies certain educational courses related to alcohol or drug abuse
Employees (FY 1996)	231	
<u>Board Members</u>		
James C. Oberwetter, Chairman (Dallas) Norwood Knight - Richardson, M.D., MBA, Vice-Chairman (League City) Hector Delgado (El Paso) Dorothy L. Grasty (Arlington) Stephanie Haynes (Alpine) Gene Shull (Tyler)		

RECOMMENDATIONS

1. TCADA Should Develop a Statewide Plan for Substance Abuse Service Delivery.

Change in Statute

■ **Require TCADA to develop a comprehensive statewide plan that includes at least the following elements:**

- a statement of the mission, goals, and objectives of substance abuse prevention, intervention, and treatment in the state;
- a discussion of how substance abuse services should be organized, delivered, and managed across the state, including case management services;

- a comprehensive assessment of existing services and identification of future needs for services;
- a description of a funding process that ensures consistent availability of services across the state and within regions;
- a description of a provider selection and monitoring process that emphasizes quality;
- a cost benefit analysis that includes determining the expected level of quality for services, access to services, and the cost of plan implementation to both TCADA and providers;
- definitions of appropriate-sized service regions and minimum levels of services for those regions;

- **a mechanism of including local input in identifying and assessing regional needs of the state; and**
- **coordination of administration and service delivery with federal, state, and local public and private programs that provide similar services.**

This recommendation will require TCADA to develop the fundamental structure for developing a coordinated service delivery system throughout the state to best meet the needs of the substance abuse client. Also, a comprehensive plan will provide a framework for future planning of the agency and provide direction and information to the Legislature as to the needs of substance abuse clients in Texas. Establishing a statewide plan is critical in the changing environment of substance abuse services within federal and state funding limitations, and the movement toward providing health related services through a managed care system.

The creation of a statewide plan will ensure that TCADA uses its limited resources in the most effective and efficient way possible, ensuring high quality, low cost services for a service delivery system, while maximizing all federal, state, and local resources. At a minimum, a statewide plan would identify those services that TCADA should offer and identify those services that other state agencies could more appropriately deliver such as Mental Health and Mental Retardation, Texas Department of Health, Protective and Regulatory Services, and Texas Youth Commission. The plan should also address opportunities to pool resources with other agencies. Defining minimum standards for service delivery and including local input for meeting specific regional needs will guide the agency in making more appropriate funding and program decisions.

Management Action

- **TCADA should explore ways to improve the formal structure used to get local input in identifying and assessing regional needs.**

The statutory recommendation requires TCADA to include a mechanism for better local input. Options for improving local input could include the regional advisory consortia, councils of government, or creation of local substance abuse authorities.

Fiscal Impact

The development of a statewide plan would have no fiscal impact on the agency or the state but would lead to

a better service delivery system and would maximize funds and accountability.

2. Improve the TCADA Funding System to Ensure that Cost Effective, Quality Services are Available Across the State.

Change in Statute

- **Require TCADA to establish a publicly-available policy that shows how funding priorities, provider selection criteria, and provider selections are determined, and document the process used to develop the policy.**

How an agency chooses certain funding priorities, provider selection criteria, and ultimately, selects certain providers, will always be subject to close scrutiny. The purpose of this recommendation is to provide the public with a means for scrutinizing those decisions to keep the process open and equitable. In addition to carefully documenting the development of the policies and decisions, TCADA needs to implement proper filing and handling procedures to ensure the integrity of the documentation.

- **Require TCADA to maintain in rule its selection processes, including, but not limited to, service purchase methods, eligibility criteria, provider selection criteria, and selection determination procedures.**

Although TCADA now has the selection process in rule, given the agency's history of selection process problems and the relative impermanence of rules, this recommendation would require that TCADA always keep the process in rules as the policy evolves over time.

- **Require TCADA to establish a system for obtaining local input in funding decisions on a regional basis, including an opportunity for formal recommendations on funding.**

As outlined in Issue 1, TCADA must develop a statewide plan that will include the appropriate way to use local input. This mechanism, whether it be the Regional Advisory Consortia (RAC), Councils of Government (COGs), or some other entity, should provide TCADA with formal recommendations on funding issues, including the appropriate range of treatment levels, accessibility to services, and selection and/or evaluation of quality providers in the region. The



agency will be accountable for establishing the specific methods used to obtain the input and, in developing the methods, should minimize the conflict of interest problems that might arise if local substance abuse experts are chosen to distribute or prioritize local funds.

■ **Require TCADA to establish a funding system that maximizes the availability of a range of treatment services statewide.**

Although funding limitations may prevent a range of services from being fully funded in a particular community, TCADA should maximize the funding available to provide an appropriate distribution of funds. This would produce a range of treatment services in each region resulting in the highest potential for treating the different needs of the clients in those regions, and ultimately, statewide.

For example, after making regional allocations, TCADA could require that the money available in each program area be divided into amounts set aside for each level of treatment. Thus, providers bidding for general adult treatment services would be competing for only a specified portion of the total funds available for general adult treatment.

■ **Require TCADA to provide for reasonable geographic access to services.**

After ensuring that a full range of treatment levels are available in a region, TCADA needs to make sure that they are accessible to intended clients. First, TCADA should examine each region to determine how the needs within the regions vary. Then TCADA must devise a way for those needs to be met. A few ways to do this would be to break a region into smaller service delivery centers, to set aside beds for rural clients, or to provide transportation for clients when appropriate. Another option, although expensive when taken to an extreme, would be to fund multiple providers throughout the region that offer the same services.

In this process, TCADA should decide which services should be made the most accessible. For example, most providers seem to agree that, for monetary reasons, detoxification and some intensive residential services cannot be made available in every community, although they should be made as available as possible and as close to the critical need in the region as possible. However, some services, including less intensive outpatient services, do need to be more readily available, keeping in mind that clients and their families must regularly drive to and from outpatient facilities.

■ **Require TCADA to select providers and renew their contracts on a best value basis. In determining best value, TCADA shall consider the following factors:**

- cost,
- past performance,
- quality of services,
- financial ability of bidder to perform services,
- ability to provide continuity of services,
- community support for provider,
- state investment in provider, and
- other relevant factors.

Although this recommendation allows the agency to determine the best method for awarding funds, including whether the competitive bid is the most appropriate method, it would require that TCADA consider more than cost when selecting providers. Although cost is critically important in making funding determinations, the agency's consideration of other factors would ensure that the state gets the highest quality service available. For example, the past performance of the provider should be more carefully evaluated. TCADA should assess (using an on-site evaluation method, the performance goals outlined in the contracts, or some other appropriate method) how well providers are performing compared to their goals and compared to each other. In addition, an evaluation of past performance should include an examination of compliance with financial and programmatic contract requirements, as well as licensure requirements.

Similarly, TCADA should fully assess the quality of the services proposed in the application and whether the provider has the financial ability to perform those services. This would be most important for new, untested providers who have never offered services in the area. TCADA should also factor in the provider's ability to offer continuity of services, in other words, the stability and reliability of the organization. TCADA should look at the level of community support for the provider, including its links with other providers, community health and job resources, and other agencies, as well as its ability to generate funds from within the community. All of these factors are indicators of the general ability of the provider to provide quality services

with limited state funds. In addition, TCADA would need to consider the state resources, including technical assistance hours and infrastructure development, that has been given to a provider.

Management Action

- **TCADA, when considering contract proposals, should maximize the use of on-site evaluation methods, whenever appropriate, to determine the quality of substance abuse providers and services offered.**

On-site evaluations would give TCADA clearer perspective about the relative quality of different providers and the services they offer. The agency would need to determine who would best be able to perform these evaluations, COGs, RACs, TCADA staff, peer reviewers, or some other entity. In any case, the advantage would be that the evaluator would not have to rely solely on the grant application to accurately reflect all of the provider’s abilities and potential shortcomings.

Because on-site evaluations are expensive, time consuming, and staff intensive, TCADA would need to develop a methodology for determining when an on-site evaluation would be appropriate. For example, it might be most appropriate only when providers are competing for large dollar contracts or after peer review or other preliminary evaluation. TCADA could perform an on-site evaluation of the three top peer review scoring providers to determine the final selection.

- **TCADA should establish the following provider selection procedures:**
 - a reasonable time between the RFP announcement and due date;
 - a reasonable schedule for technical assistance and timetable for written responses to inquiries during the RFP process; and
 - a reasonable contract term, ranging from two to five years, that provides for continuity in service delivery and maximization of current state and community investment.

Depending on the extent to which the RFP process is used to determine the quality of the provider and its services, this recommendation would help to ensure that the provider has the time and technical assistance necessary to communicate the quality of its services. In

addition, TCADA should set contract terms between two and five years to maximize the state and community investment in that provider and give the provider an opportunity to develop an appropriate network of services, in addition to an adequate amount of time to perform up to expected standards. This recommendation also seeks to minimize the cost of the state continually rebidding short-term contracts.

Fiscal Impact

These recommendations would result in the more efficient and effective use of public funds. While the recommendations would have no impact on the total federal/state funds appropriated for substance abuse services, the recommendation would provide mechanisms to improve service quality and availability within existing funding limitations.

Accessibility to high-quality prevention, intervention and treatment services ensures the continuum of care necessary to prevent and eliminate chemical dependency of clients. As these goals are achieved, the state enjoys the long-term benefits of redirecting limited resources to those who are in need.

3. TCADA Should Implement a Payment Method that Results in the Highest Quality Services at the Best Price.

Change in Statute

- **Require that TCADA implement a unit rate system for purchase and payment to service providers.**
- **Specify that TCADA shall implement the unit rate reimbursement system so long as it results in the highest quality services at the best price at the lowest administrative cost to the agency and its providers, without sacrificing provider accountability.**
- **Specify that the requirement applies to treatment providers but to prevention/intervention providers only as appropriate.**
- **Require that if TCADA implements a unit rate reimbursement system, it must design and implement certain safeguards, including monitoring expenditures and performance, using a competitive procurement system, and verifying costs before and after a grant term to**

ensure appropriate rate-setting, to prevent questionable expenditures and contain costs.

Management Action

- **TCADA should study using a unit rate reimbursement system for treatment providers through August 1998, and if positive, to implement the system for fiscal year 1999 treatment contracts.**
- **TCADA should study using a unit rate reimbursement system for prevention and intervention providers through August 1998, and if positive, to implement the system for fiscal year 1999 prevention and intervention contracts.**
- **In the process of studying a unit rate reimbursement method, TCADA should clarify its federal accountability responsibilities with the appropriate federal entities before instituting any unit rate reimbursement system.**

This recommendation would require that TCADA purchase and pay providers for services on a unit rate basis if, after studying the unit rate reimbursement method and the rate setting process, the study finds that the system would result in higher quality services at a better price than the cost reimbursement method and would not sacrifice provider accountability. To develop the data necessary to make the critical determinations about the effects of the unit rate system on cost, quality, and accountability, TCADA should set up a pilot project using the unit rate system for a limited group of treatment services.

Studying the effects of the unit rate system on prevention providers might be more difficult because the unit rate system has never been used by TCADA for those services. Thus, TCADA should focus first on whether prevention and intervention services can be broken down into units before the study focuses on the relative quality, cost, and accountability differences. In this process, it would be appropriate for TCADA to implement a pilot project using unit rates for a small, contained prevention or intervention program to see how well the system works and, in general, to develop data for its study.

Before working on any of the other elements in the study of the unit rate reimbursement method, TCADA should clarify its federal accountability responsibilities. This will ensure that any federal requirements are factored

into the study at an early juncture. In addition to clarifying its responsibilities, TCADA should also take its specific unit rate reimbursement proposal, including all safeguards, to the appropriate federal entity for approval, whether formal or informal.

Most importantly, this recommendation would require that TCADA implement safeguards to prevent questionable expenditures and contain costs if a unit rate reimbursement system is instituted for either treatment contracts or prevention/intervention grants. The impact of these safeguards would be a shift in TCADA's staff and budgetary resources from tracking each provider's expenditures to monitoring expenditures on a risk basis for rate-setting verification, allowing for an increased emphasis on performance monitoring. With the appropriate safeguards in place, the state and its clients will benefit from higher quality services and the results of a more sound approach to monitoring state fund expenditures.

Fiscal Impact

The recommendation to implement a unit rate system to purchase and pay for substance abuse services could result in a positive fiscal impact to the state. The actual savings cannot be estimated because the unit rate, reduction in program expenses, and final implementation specifics cannot be determined. In addition, a net administrative cost savings to the agency could be achieved through a reallocation of staff resources resulting from implementing a unit rate system. Any agency savings achieved would be reallocated to provide direct client services.

4. Improve Accountability for State Funds Through Adequate Contracting and Performance Measurement.

Change in Statute

- **Require TCADA to include the following standards in each contract:**
 - **clearly defined goals, outputs, and measurable outcomes that directly relate to program objectives;**
 - **clearly defined sanctions or penalties for noncompliance with contract terms and conditions; and**

- **clearly specified accounting, reporting, and auditing requirements applicable to funds received under contract.**
- **Require TCADA to include the following in contract monitoring:**
 - **a risk-assessment methodology to monitor compliance with financial and performance requirements; and**
 - **obtain and evaluate program cost information to ensure all costs, including administrative costs, are reasonable and necessary to achieve program objectives.**

These recommendations would ensure a performance-based contracting system for TCADA, that will evaluate providers on performance. The current Appropriations Act contains a general rider relating to contracting requirements for all health and human services agencies that includes provisions similar to these. This recommendation would clearly state legislative intent in TCADA's enabling statute. TCADA would be specifically required to ensure processes are in place to effectively contract for client services and hold providers accountable for the services they deliver. The most significant impact will be ensuring the provision of quality services in the substance abuse services.

Management Action

- **TCADA should implement pilot projects that set primary performance goals for each provider and provide funding incentives for meeting and exceeding goals.**

In the pilots, TCADA should set goals for each provider and tie funding to providers based on how well they achieve performance goals. Providers should be able to directly affect their measures, but the measures must be closely linked to the mission of TCADA.

TCADA would require providers to submit quarterly and annual reports that display the progress of the provider toward the primary performance goals and numerous other factors that relate to effective service. In addition to the primary performance measures, TCADA can learn from other data. This additional information should help TCADA write more effective contracts in the future.

Fiscal Impact

The recommendation to improve the accountability of providers for TCADA will result in increased efficiency

and effectiveness of contracted services. However, savings cannot be determined as the number, value, and savings associated with each type of contract cannot be estimated.

5. Improve the Agency's Technical Assistance Process.

Change in Statute

- **Require the agency to provide clear and consistent technical assistance to ensure provider consistency and accountability. The technical assistance function should include:**
 - **formal, documented technical assistance policies and procedures;**
 - **a single point of entry for technical assistance requests; and**
 - **established technical assistance response time frames as determined by the Commission.**

This recommendation provides TCADA with statutory direction to provide clear, consistent, and timely technical assistance to its providers. TCADA would be able to fully develop formal processes and procedures for technical assistance that should include specified response time frames, central access, and documentation and tracking procedures. These changes would help to ensure that providers provide better services to clients and meet state standards.

Management Action

- **Require TCADA to establish organizational and management policies that clearly separate technical assistance from the agency's compliance activities.**

The agency needs to clearly represent to providers in what capacity staff is operating, one of assistance versus judge of compliance. This recommendation would require TCADA to assure providers that an exchange of information will not compromise the service providers' status in regard to compliance.

Fiscal Impact

Early detection and resolution of provider problems through improved technical assistance reduces the risk of misuse of public funds and could result in savings to the state. The amount of savings cannot be determined as



the instances of assistance and number of providers receiving assistance cannot be estimated. TCADA has indicated that the changes in processes can be accomplished with existing staff.

6. Continue the Texas Commission on Alcohol and Drug Abuse.

Change in Statute

- Continue the Commission on Alcohol and Drug Abuse for 12 years.
- Change the terms of the Commissioners from two-year to six-year terms with two terms expiring every two years.

This recommendation provides for the standard Sunset review in 12 years which will result in the agency having a new Sunset date of 2008. Changing the members' terms will provide continuity of experience on the Commission and is consistent with state policy on boards and commissions.

Fiscal Impact

If the Legislature continues the current functions of TCADA using the existing organizational structure, the Commission's annual appropriations of approximately \$127 million would continue to be required.

7. Provide Parallel Statutory Authority Regarding Rule and Fee Authority for Each of the Offender Education Programs Administered by TCADA.

Change in Statute

- Specify that TCADA has rule and fee authority for each of the offender education programs it is statutorily required to administer.

The statute currently requires that TCADA approve offender education programs which courts require for certain individuals who commit crimes with alcohol and drug abuse as a contributing factor. TCADA currently administers programs under the Code of Criminal Procedure, Transportation Code, and Alcoholic Beverage Code.

This recommendation will provide consistent statutory authority for each of the offender education programs administered by TCADA. Specific provisions required for administration of each program include the ability of

the Commission to adopt rules; the requirement that the Commission monitor, coordinate, and train persons providing the education programs; and the authority to charge a fee for certification and renewal.

Fiscal Impact

The recommendation will result in no fiscal impact to the state.

8. Delete the Requirement that an Applicant for a Chemical Dependency Counselor License be a Resident of the State of Texas.

Change in Statute

- Delete the requirement that an applicant for a chemical dependency counselor license be a resident of the state of Texas to obtain a license.

The statute requires that to obtain counselor licensure, an applicant must be a resident of the state of Texas. This recommendation would delete the residency requirement removing barriers to residents of other states becoming licensed in Texas. This larger pool of chemical dependency counselors would give Texas residents, particularly those near the state's borders, greater access to licensed chemical dependency counselors.

Fiscal Impact

Removal of barriers to licensure could result in a positive fiscal impact to the state as more individuals become licensed. The amount of increased revenue cannot be determined as the number of additional licensees cannot be estimated.

9. Specify that Licensing and Disciplinary Decisions Regarding Chemical Dependency Treatment Facilities Rests with the Commission, not the Executive Director. Authorize the Use of Administrative Penalties in Disciplining Licensed Chemical Dependency Counselors.

Change in Statute

- Specify that licensing and disciplinary decisions regarding chemical dependency treatment facilities rests with the TCADA Commission.

- **Authorize the use of administrative penalties in disciplining licensed chemical dependency counselors.**
 - **authorize penalties of up to \$1,000 per violation, per day.**
 - **require all fines be deposited in the General Revenue Fund.**

TCADA licenses and regulates chemical dependency treatment facilities and counselors. Currently, the statute provides that the Executive Director make decisions regarding denials, revocations, suspensions, and nonrenewals related to facilities while the Commission makes similar decisions related to counselors. Additionally, the statute allows the agency to impose administrative penalties against licensed facilities but not counselors.

This recommendation will make the handling of licensing and disciplinary matters for facilities and counselors comparable and give the agency a full range of sanctions for each type of licensee. The \$1,000 penalty limit is based on penalty limits provided for other agencies that license professions and will allow the agency to assess penalties that fit the seriousness of the violation and deal with repeat offenders. Deposit of administrative fine revenues in the General Revenue Fund is consistent with state policy for most fee revenue.

Fiscal Impact

The recommendation allowing TCADA to use administrative fines would result in a positive fiscal impact to the state. The authority to levy penalties would result in increased revenue to the General Revenue Fund. The exact amount cannot be determined as the number of violations, frequency of violations, and amount of penalties cannot be estimated.

10. Recodify all of TCADA's Statutory Authority in Contiguous Chapters of the Health and Safety Code.

Change in Statute

- **Repeal obsolete sections of the Health and Safety Code related to TCADA.**
- **Recodify statutory authority for regulation of chemical dependency counselors in the Health and Safety Code.**

- **Reference authority for offender education programs administered by TCADA in the Health and Safety Code.**

This recommendation will place all statutory authority for TCADA in five, nearly contiguous, chapters of the Health and Safety Code.

Fiscal Impact

The recommendation will result in no fiscal impact to the state.

Summary of Fiscal Impact of All Recommendations

Most of the Commission's recommendations will result in a positive fiscal impact and more effective use of existing funds. However, the actual savings and additional revenues cannot be estimated.



Texas Commission on Alcohol and Drug Abuse	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Already in Statute	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Already in Statute	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Modify	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Update	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.

Texas Commission on Alcohol and Drug Abuse	
Recommendations	Across-the-Board Provisions
	B. LICENSING - Counselor Licensing
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Already in Statute	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Apply	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Already in Statute	5. Authorize the staggered renewal of licenses.
Update	6. Authorize agencies to use a full range of penalties.
Update	7. Specify disciplinary hearing requirements.
Already in Statute	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Update	9. Require the policymaking body to adopt a system of continuing education.



Texas Commission on Alcohol and Drug Abuse	
Recommendations	Across-the-Board Provisions
	B. LICENSING - Facility Licensing
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Update	6. Authorize agencies to use a full range of penalties.
Modify	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





NATIONAL GUARD ARMORY BOARD

<p><u>General Information</u></p> <p>Statutory Reference 435 Government Code</p> <p>Board Composition 6 members</p> <p>Agency Head Dr. Michael Huff, Ph.D. Executive Director</p> <p>Appropriation (FY 1996) \$24,713,072 (3.0% general revenue, 72.9% federal funds, 6.3% bond proceeds, 17.5% current fund balance. NGAB's appropriations fluctuate depending on the availability of federal funds.)</p> <p>Employees 32 (FY 1996)</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● supports activities of the Adjutant General's Department by constructing and renovating armories for the Texas National Guard ● maintains 113 national guard armories throughout Texas ● sells or disposes of armories determined to be unneeded by the AGD
<p><u>Board Members</u></p> <p>Brig. General Hal Boyd, Chairman, Texas Army National Guard (Ret.) (Big Spring)</p> <p>Brig. General Lillian Dunlap, United States Army (Ret.) (San Antonio)</p> <p>Col. Jerry Ragsdale, Texas Air National Guard (Dallas)</p> <p>Michael G. White (El Paso)</p> <p>Brig. General Federico Lopez III, Texas Army National Guard (Austin)</p> <p>Brig. General Darrel Baker, Texas Army National Guard (Austin)</p>	

RECOMMENDATION

1. Continue the National Guard Armory Board with Certain Changes.

Change in Statute

- **Continue the National Guard Armory Board (NGAB) for four years and restructure it to facilitate armory construction.**

Change NGAB's Sunset Date to September 1, 2001. In addition, NGAB's board composition would be changed to require:

- **one current senior officer of the Texas National Guard;**

- **two members with experience in architecture, civil engineering or construction management who are not active members of the Texas National Guard; and**
- **three public members who are not active members of the Texas National Guard.**

The senior National Guard Officer would be appointed by the Governor from a list submitted by the Adjutant General. The remaining five members would be appointed by the Governor with the advice and consent of the Senate.



Fiscal Impact

If the Legislature continues the functions of the National Guard Armory Board using the existing organizational structure, the Board's annual appropriation in fiscal year 1997 would continue to be required for agency operations.



National Guard Armory Board	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Update	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Modify	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Apply	17. Require the agency to establish career ladders.
Apply	18. Require a system of merit pay based on documented employee performance.

National Guard Armory Board	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applied	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applied	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applied	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applied	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applied	5. Authorize the staggered renewal of licenses.
Not Applied	6. Authorize agencies to use a full range of penalties.
Not Applied	7. Specify disciplinary hearing requirements.
Not Applied	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applied	9. Require the policymaking body to adopt a system of continuing education.



AUTOMOBILE THEFT PREVENTION AUTHORITY

<p><u>General Information</u></p> <p>Statutory Reference Art. 4413(37) V.T.C.S.</p> <p>Board Composition 7 members</p> <p>Agency Head Linda Young Executive Director</p> <p>Appropriation ATPA's budget for the 1996-97 biennium was included in the Governor's office appropriation and is estimated to be \$10.5 million for each of the two years.</p> <p>Employees (FY 1996) 6</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● provides grants to law enforcement agencies and other organizations throughout Texas to fund auto theft prevention task forces ● coordinates multi-state and Texas-Mexico auto theft prevention and recovery efforts 		
<p><u>Board Members</u></p> <table style="width: 100%;"> <tr> <td style="width: 50%;"> Patty J. Williams, Chair (Consumer, Fort Worth) Mateele Rittgers (Consumer, El Paso) Charles Wirth (Insurance, Austin) Phil Donovan (Insurance, Houston) </td> <td style="width: 50%;"> Chief Jim Schoepner (Law Enforcement, Harlingen) Deputy Chief Troy McClain (Law Enforcement, Dallas) Col. James Wilson (ex officio, DPS, Austin) </td> </tr> </table>		Patty J. Williams, Chair (Consumer, Fort Worth) Mateele Rittgers (Consumer, El Paso) Charles Wirth (Insurance, Austin) Phil Donovan (Insurance, Houston)	Chief Jim Schoepner (Law Enforcement, Harlingen) Deputy Chief Troy McClain (Law Enforcement, Dallas) Col. James Wilson (ex officio, DPS, Austin)
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RECOMMENDATIONS

1. Continue the Automobile Theft Prevention Authority within the Texas Department of Transportation.

Change in Statute

- Continue the Auto Theft Prevention Authority within the Texas Department of Transportation.
- Clarify the relationship between ATPA and TxDOT by:
 - removing ATPA's authority to hire its own staff and contract with state agencies other than TxDOT for support services; and
 - specifying that TxDOT shall provide staffing and services necessary to support the function of ATPA, as determined by contract with the Authority's Board.

- Set a cap on non-grant expenses at eight percent of total expenditures.
- Remove ATPA's Sunset review date and specify that it will be included in future reviews of TxDOT.

This recommendation would continue ATPA's existing functions relating to the granting of funds to combat auto theft. The seven-member Authority would continue as a separate Governor-appointed entity within TxDOT and would retain final decision-making power over auto theft grants.

By clarifying TxDOT's responsibility for staffing ATPA and for providing all administrative services, this recommendation would strengthen the link between ATPA and TxDOT, clearly establishing ATPA as part of TxDOT. As a result, ATPA would not undergo a separate Sunset review, but would instead be reviewed as

part of the next TxDOT review. TxDOT would be responsible for all ATPA staff needs, including any contract staff that may be necessary in the future. In addition, TxDOT would be responsible for securing services for ATPA that TxDOT cannot provide, such as ATPA fee collection services, now performed by the Comptroller's Office. This arrangement would match TxDOT's responsibility for operation of the Motor Vehicle Division under the authority of the Motor Vehicle Board.

The statutory changes would not affect state highway funds. ATPA staff would be paid through funds appropriated for auto theft prevention, enforcement and prosecution purposes. TxDOT would identify staff time, materials and services dedicated to ATPA to assure that state highway funds are not used for ATPA purposes. Likewise, ATPA funds could not be used on anything other than ATPA activities, as intended by the Legislature.

Setting an operating expense cap of eight percent, the current level, will ensure that these expenses stay in line with those of similar grant programs. This cap would apply to all non-grant expenses, including salaries, travel, and marketing expenditures. The operating expense cap should be calculated based on the total amount of funds expended, rather than the total amount collected, to reflect a percentage of the money actually administered. This cap will allow the greatest amount of funds collected to be used for the primary purpose intended — auto theft prevention grants.

Fiscal Impact

This recommendation would result in a more cost-efficient administration of the auto theft program, but resulting savings cannot be estimated. ATPA funds are no longer dedicated as a result of funds consolidation legislation in 1995. Funds collected on behalf of ATPA are general revenue funds. As a result, any savings resulting from TxDOT administrative support and the proposed cap on expenses would have a positive effect on general revenue.

2. Maximize Earnings on Auto Theft Prevention Assessment Collections.

Change in Statute

■ **Require insurers to pay ATPA assessments:**

- **not later than August 1 of each year for motor vehicle years calculated on policies**

issued, delivered or renewed from January 1 through June 30 of the same year; and

- **not later than March 1 of each year for motor vehicle years calculated on policies issued, delivered or renewed from July 1 through December 31 of the previous year.**

This recommendation would result in increased revenue for the state without significant administrative burdens for insurance companies or the Comptroller's Office. Motor vehicle years would still be calculated the same way, so assessments each year would be the same, whether collected once or twice a year. In addition, insurance companies would still have ample time to make their assessment calculations. Insurance companies would have the month of July every year to calculate the assessment due for policies issued from January through June and would have a calculation period of three months for assessments on policies issued between July 1 and December 31.

Fiscal Impact

This recommendation would have a positive fiscal impact to the state's General Revenue Fund. The recommendation would result in a net gain to general revenue of \$26,334 in fiscal year 1998 and \$184,340 in fiscal year 1999 and each year thereafter.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations will result in a positive fiscal impact to the state.

FY 1998 - 99 (2 years)	FY 1998 - 2002 (5 years)
\$210,674	\$763,694



Automobile Theft Prevention Authority	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Apply/Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Apply/Modify	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply/Modify	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Not Applicable	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Not Applicable	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Already in Statute	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Not Applicable	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Not Applicable	16. Require development of an equal employment opportunity policy.
Not Applicable	17. Require the agency to establish career ladders.
Not Applicable	18. Require a system of merit pay based on documented employee performance.

Automobile Theft Prevention Authority	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



CREDIT UNION COMMISSION

<p><u>General Information</u></p> <p>Statutory Reference Texas Credit Union Act, Article 2461-1 Vernon's Texas Civil Statutes</p> <p>Board Composition 9 members</p> <p>Agency Head Harold E. Feeney</p> <p>Appropriation (FY 1996) \$1,269,040</p> <p>Employees (FY 1996) 26</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● charters credit unions under the authority of the Texas Credit Union Act ● monitors and supervises state-chartered credit unions by conducting annual examinations ● evaluates the business and financial practices of the credit union industry ● makes recommendations to the Legislature based on comprehensive studies of statutes affecting credit unions
<p><u>Board Members</u></p> <p>Linda Mann, Chair, (Bay City) Garold R. Base, Vice-Chair, (Plano) Barbara F. Arnold, (Odessa) Leon Ewing, (San Antonio) Robert S. Hayes, (Amarillo) Susan C. Jackson, (Houston) Gail Mackie, (San Antonio) Terry R. Stapleton, (Irving)</p>	

RECOMMENDATIONS

1. Increase the Public Perspective of the Credit Union Commission by Requiring a Public Member Majority.

Change in Statute

- **Increase public membership on the Credit Union Commission from three to five public members.**
- **Require the Credit Union Commission to adopt rules governing recusal of Commission members, providing public notice of Commission activities, and outlining the credit union merger process.**

This recommendation ensures that members of the public, and not the industry itself is the driver of the state's financial regulatory structure. The effectiveness of

a regulatory body's ability to protect the public can be linked to the number of public members in relation to the number of industry representatives. Strong pressure within a board for a more consumer-oriented approach encourages public-minded decisions, but such pressure is less effective when only a minority of members are representative of the public.

This recommendation would increase public membership on the Credit Union Commission from three to five members. The Commission would have four members with at least five years of experience as an executive, officer, director or committee member of a credit union. This composition of the Credit Union Commission would maintain a workable level of industry expertise among its members, while increasing the public perspective on regulatory issues.

Requiring the Commission to adopt specific rules governing public notice and recusal would heighten fairness and objectivity and decrease potential perceptions of conflicts-of-interest regarding Commission decisions. Such rules would increase the Commission's focus on protecting consumers while maintaining the soundness of the credit union industry.

Requiring the Commission to adopt rules governing the process for mergers of credit unions would ensure that the Commission sets the policy and procedure for evaluating mergers. Placing these policies in the Department's rules would afford the public with adequate notice of how the agency approves proposed mergers.

Fiscal Impact

This recommendation would not have a fiscal impact to the state.

2. Ensure Adequate Public Notice and Opportunity for Input Regarding Proposed New or Expanding Credit Unions.

Change in Statute

- **Require the Credit Union Commissioner to provide for public notice, comment, and an opportunity for a hearing before making decisions regarding approval or denial of charter applications, field of membership expansions, and mergers.**
- **Require the Credit Union Commissioner to publish notice of proposed expansion activities in the Texas Register.**
- **Authorize the Credit Union Commissioner to waive or delay the requirement for public notice on determination that the waiver or delay is in the public interest.**

This recommendation would require the Credit Union Commissioner to follow the state's policy to adequately inform and seek input from the public and other interested parties before making important decisions about new or expanding credit unions. Publishing credit union expansion information in the Texas Register would ensure that all interested parties, even those not listed on the Department's mailing list, are informed of proposed credit unions, expanding fields of membership, or mergers. The Commissioner may waive or delay the

public notice when the waiver or delay is in the public interest. This authority to waive is modeled after similar authority in the Texas Banking Act. Like the authority in the Banking Act, this waiver authority requires that if public notice is waived, the information becomes public information after 35 days.

Allowing for public input and an opportunity for a hearing would provide the Credit Union Commissioner with the broad-based information necessary to assess the availability and adequacy of financial services and the impact of these decisions on local communities. A hearing would be required when requested by any interested party, including members of the general public. Hearings would be conducted by the Commissioner to obtain input and would not rise to the level of full administrative review hearings under the Administrative Procedures Act.

In addition to this recommendation, the Sunset Commission recommends its standard across-the-board recommendation on public input be applied to this agency. This will provide continued opportunity for public testimony at each meeting of the Credit Union Commission. This ensures another place for those interested in the Department's business to offer input and address concerns about the way credit union regulation is carried out in the state.

Fiscal Impact

Strengthening public notice and input requirements will not result in a fiscal impact to the state.

3. Continue the Credit Union Commission for Four Years.

Change in Statute

- **Continue the Credit Union Commission for four years to coincide with the Sunset review of the Finance Commission.**
- **Charge the Sunset Commission, in its reviews in 2001, with evaluating the structure of the state's financial regulatory agencies.**
- **Require the Credit Union Commission to coordinate with the Finance Commission of Texas to jointly review financial institution regulatory laws and rules to identify areas of consistency and inconsistency and report to the Sunset Commission, by September 1, 1999, on the results of the review.**



This recommendation would continue the Department for four years — a period that would place its Sunset date in line with that of the Finance Commission, Banking Department, Savings and Loan Department, and Office of the Consumer Credit Commissioner. Reviewing the Credit Union Department simultaneously with the state's other financial institution regulatory agencies would allow the Legislature, at a more appropriate time, to fully consider the organizational structure of financial regulation. The Sunset Commission would conduct this review with the specific charge to study the effects of consolidating the Credit Union Department with the Finance Commission. This recommendation also requires a comprehensive look at the state's financial regulatory laws and rules. The results of this study would help the Sunset Commission in its review of the regulation of the industry as a whole.

Fiscal Impact

If the Legislature continues the current functions of the Credit Union Department, using the existing organizational structure, the Department's annual appropriation of about \$1.25 million in fiscal year 1996 would continue to be required for the operation of the agency. The Department may incur some expense in conducting the required review of the rules. However, the exact amount of this expense cannot be estimated.

Summary of Fiscal Impact of All Recommendations

The recommendation to continue the Commission would require its annual appropriations of approximately \$1.25 million to continue. This recommendation also requires the Department to conduct a review of its rules, and the Credit Union Commission and the Finance Commission may incur some expense in conducting this study. However, the exact amount of this expense cannot be estimated. The recommendations concerning the Commission structure and public notice have no fiscal impact.

Credit Union Commission	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Update	10. Provide for notification and information to the public concerning agency activities.
Update	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Update	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.



Credit Union Commission	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Modify	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





CRIMINAL JUSTICE POLICY COUNCIL

<p><u>General Information</u></p> <p>Statutory Reference Chapter 413, Government Code</p> <p>Board Composition 17 members</p> <p>Agency Head Dr. Tony Fabelo Executive Director</p> <p>Appropriation (FY 1996) \$1,202,465</p> <p>Employees (FY 1996) 26.5</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● conducts an in-depth analysis of the criminal justice system ● determines long-range needs of the criminal justice system and recommend policy priorities ● computes the daily costs of services provided by criminal justice agencies ● determines long-range information needs of the criminal justice system and acquires that information
<p><u>Board Members</u></p> <p>Governor George Bush, Chair (Austin) Lt. Governor Bob Bullock (Austin) Speaker Pete Laney (Hale Center) Senator John Whitmire (Houston) Representative Allen Hightower (Huntsville) Representative Barry Telford (DeKalb) Representative Allen Place (Gatesville) Representative Tony Goolsby (Dallas) Col. James B. Adams (Austin) Sheriff Sonny Keesee (Lubbock) Victoriano Trevino (Houston)</p>	

RECOMMENDATIONS

1. Abolish the Criminal Justice Policy Council Board and Improve the Agency's Accountability.

Change in Statute

- Eliminate the Board of the Criminal Justice Policy Council.
- Require the Executive Director of the Criminal Justice Policy Council, when formulating research priorities, to consult with the Governor, Lieutenant Governor, Speaker of the

House, and the Chairs of the respective committees in the House and Senate having jurisdiction over criminal justice issues.

- Grant the Governor the authority to appoint advisory committees, if needed, to guide the Criminal Justice Policy Council.

This recommendation would remove the Board of the Criminal Justice Policy Council, but would leave the agency intact. The Governor would continue to employ the Executive Director. The requirement for the Executive Director to consult with the state leadership would formalize a process that currently takes place

informally. Granting the Governor authority to appoint advisory committees replaces the current authority vested in the Board and ensures that the agency can continue to acquire input if needed.

Fiscal Impact

This recommendation would not have a fiscal impact to the state.

2. Continue the Criminal Justice Policy Council.

Change in Statute

■ **Continue the Criminal Justice Policy Council for 12 years.**

This recommendation would continue the Policy Council for the usual 12 years with a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of the Criminal Justice Policy Council, using the existing organizational structure, the Policy Council's annual appropriation of about \$1.2 million in fiscal year 1996 would continue to be required for the operation of the agency.

**Summary of Fiscal Impact
of All Recommendations**

The Commission's recommendations will not result in additional fiscal impact to the state.



Criminal Justice Policy Council	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Modify	2. Require specific provisions relating to conflicts of interest.
Modify	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Not Applicable	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Modify	5. Specify grounds for removal of a member of the policymaking body.
Modify	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Not Applicable	7. Require training for members of policymaking bodies.
Not Applicable	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Not Applicable	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Not Applicable	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Apply	17. Require the agency to establish career ladders.
Apply	18. Require a system of merit pay based on documented employee performance.

Criminal Justice Policy Council	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



TEXAS COMMISSION ON FIRE PROTECTION

<p><u>General Information</u></p> <p>Statutory Reference Chapter 419 Government Code</p> <p>Board Composition 12 members</p> <p>Agency Head Gary L. Warren Executive Director</p> <p>Appropriation (FY 1996) \$6,730,526</p> <p>Employees (FY 1996) 135</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● regulates and assists paid local fire protection personnel and local fire departments ● establishes minimum educational, training, physical, and mental standards for employment as fire protection personnel ● conducts biennial inspections of paid fire departments and facilities conducting courses for training fire protection personnel and recruits ● reviews key rate schedule every four years and makes recommendations to the Department of Insurance ● performs fire and arson investigations ● licenses and regulates companies which service and sell fire extinguishers, fire alarm systems, and automatic fire sprinkler systems 		
<p><u>Board Members</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> Ronnie James, Presiding Officer (Wichita Falls) David Abernathy (Pittsburg) Juan J. Adame (Corpus Christi) Ernest L. Brown (Friona) Marvin Dawson (Brownfield) Gerald Hood (Benbrook) </td> <td style="width: 50%; border: none; vertical-align: top;"> Pat Hughes (North Richland Hills) Jon M. Hutchens (Houston) Gilbert Robinson (Texas City) Ricardo Saldana (Mission) Kelley Stalder (Parker) Carl D. Wren (Manchaca) </td> </tr> </table>		Ronnie James, Presiding Officer (Wichita Falls) David Abernathy (Pittsburg) Juan J. Adame (Corpus Christi) Ernest L. Brown (Friona) Marvin Dawson (Brownfield) Gerald Hood (Benbrook)	Pat Hughes (North Richland Hills) Jon M. Hutchens (Houston) Gilbert Robinson (Texas City) Ricardo Saldana (Mission) Kelley Stalder (Parker) Carl D. Wren (Manchaca)
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RECOMMENDATIONS

1. Improve the Commission's Rulemaking Ability by Giving the Commission Complete Authority to Adopt Rules and Changing Advisory Committee Member Selection.

Change in Statute

- Provide the Commission full authority to propose, modify, adopt, or reject rules under its jurisdiction.

- Require that the advisory committees have the opportunity to review and comment on rules before adoption by the Commission, except in emergency rulemaking situations.
- Revise the process used to select members of the Commission's advisory committees by:
 - requiring that all members of advisory committees shall be selected and appointed by the Commission;
 - allowing the Commission, as it deems appropriate, to receive input from the

relevant associations for names of potential advisory committee members; and

- **in the case of the regulation of the fireworks industry, limiting the Commission to adopting rules or rule changes that have been approved by the Fireworks Advisory Council.**

These recommendations would ensure that the Commission would have full rulemaking powers and duties, including the ability to adopt, reject, or modify committee rule recommendations. This change clarifies that the advisory committees would act in an advisory role only. The advisory committees, including the Funds Allocation Advisory Committee, shall make recommendations, but the final decisions will be made by the Commission. Any amendments to proposed rules should be made at the Commission meeting following the first consideration of the proposed rules. In the case of the regulation of the fireworks industry, the TCFP should be limited to adopting rules or rule changes that have been approved by the Fireworks Advisory Council.

These recommendations would also ensure that the advisory committees used by the Commission are accountable to the Commission and not to outside entities that have a vested interest in the Commission's decisions. However, the Commission would have authority to request and obtain recommendations of potential advisory committee members from the relevant associations.

The associations and advisory committees would continue to have an important role in the Commission's regulatory processes. The advisory committees would continue to propose rules and would be given the opportunity to review and comment on all rules, except in emergency rulemaking situations. This emergency rulemaking would be governed by relevant provisions of the Administrative Procedure Act that cover such situations.

Management Action

- **Require the Commission to reevaluate and readopt, as appropriate, all rules two years from the effective date of legislation continuing the agency.**

The current rulemaking system at TCFP has not allowed the Commission to reject or modify rules without first submitting the reasons for rejection or modification to the pertinent advisory committee for approval.

Therefore, to decrease inefficiency, a tremendous volume of rules of questionable necessity were adopted by the Commission under this system. Under the new system, the Commission should take the opportunity to review whether all the numerous rules adopted under the previous system are indeed necessary and properly reflect the regulatory needs of the Commission. The Commission should complete their review of all rules two years from the effective date of this legislation.

Fiscal Impact

This recommendation will not have a fiscal impact to the state.

2. Ensure the Public's Interests are Represented by Adding Public Members to the Commission.

Change in Statute

- **Restructure the Commission's membership to:**
 - **add three members of the general public;**
 - **reduce from three to two the members representing chief officers, fire fighters, and volunteer fire chiefs or fire fighters; and**
 - **specify that, for chief officers and fire fighters, one must be employed by a political subdivision with a population of less than 50,000 and one by a political subdivision of more than 50,000.**

This recommendation changes the Commission membership to allow the public to have adequate representation. Providing public members would increase the effectiveness of the Commission in protecting the public and increase public perspective in its policy development and rulemaking. While this recommendation does not provide for the Sunset standard, one-third public membership, it does add three representatives of the general public, while maintaining members with other needed expertise as discussed below.

This recommendation would retain the current Commission size of 12 members. Each of the segments of the fire service would continue to have representation; two members representing fire chiefs, fire fighters, and volunteer fire fighters; as opposed to the current structure of three representatives for each. The current slots for a fire protection engineer, arson investigator, and fire instructor are not affected by this



recommendation. The changes in composition would be phased in as current members' terms expire, thus opening spots on the Commission for new appointments.

Fiscal Impact

This recommendation would not have a direct fiscal impact to the state.

3. Remove the Texas Commission on Fire Protection's Responsibility to Perform Key Rate Inspections.

Change in Statute

- **Remove the Commission's responsibilities for inspections and assistance related to key rates.**

This recommendation would remove TCFP's duty to perform key rate or any other fire suppression inspections of municipalities for the purpose of recommending ratings to TDI. Under this approach, TDI would obtain all inspection information from ISO without charge. This change eliminates the Commission's responsibility to perform a function no longer needed by TDI and ensures the state does not duplicate a function already available from the private sector.

This recommendation will not prevent the Commission from inspecting fire departments. Standard TCFP inspections of fire departments under its Standards and Certification Division will continue.

Management Action

- **TCFP should provide technical assistance to local fire departments concerning the FSRS.**

The Commission is currently authorized to advise and assist public entities with duties related to fire protection. This recommendation would encourage TCFP to provide technical assistance to communities to help them find ways to improve their FSRS classification and interpret inspection results. TCFP, because of its relationship with the fire service, could provide a helpful service to the localities through this technical assistance aspect.

Fiscal Impact

Based on TCFP's fiscal year 1997 budget, the key rate strategy was divided into two parts -- key rate inspections and providing engineering assistance. The Commission expects these two strategies to cost

\$370,639 combined in fiscal year 1997. Under this recommendation, TCFP would provide technical assistance through the engineering assistance strategy at the continued cost of \$218,146, but would stop conducting key rate inspections. This change would result in an annual savings of \$151,278.

4. Reduce Duplication by Having One Certification for Both Paid and Volunteer Fire Fighters.

Change in Statute

- **Combine paid fire fighter certification and volunteer fire fighter certification into one certification program.**
- **Consolidate the fire protection personnel advisory committee and the volunteer fire fighter advisory committee into a single fire service advisory committee.**
- **Eliminate employment as a requirement to maintain a paid fire fighter certificate.**

Combining the two certification programs will make the transition from certified volunteer to paid fire fighter easier for those choosing to have careers in the paid fire service. In addition, combining the two programs will make it easier for the Commission to certify fire fighters by streamlining operations and eliminating redundant efforts. Since training and education requirements are almost identical now, the Commission will be able to affect this change easily. Removing the employment requirement will allow certified fire fighters to leave paid employment and maintain certification as long as continuing education requirements are met and the annual \$20 fee is paid. Fire fighters not currently employed in fire protection would have the responsibility to ensure their certificate are renewed.

With a single certification, the Commission will no longer need two advisory committees representing paid and volunteer fire fighters respectively. The volunteer fire fighter advisory committee and the fire protection personnel advisory committee would be combined into a single advisory committee with equal membership from the paid and volunteer fire services.

Employment will continue to be a requirement for initial certification for paid fire fighters. Volunteers will need to have an affiliation with a volunteer department to become certified. Certificate holders not currently employed in the fire service can obtain continuing

education from the Fire School at Texas A&M, paid fire departments, volunteer departments, or from certified proctors. The details of how continuing education will be tracked and accessed will need to be addressed by the Commission.

Fire departments will continue to be responsible for renewing the certificates of their paid fire fighters and paying the annual \$20 certification fee. Fire fighters that are no longer employed in fire protection would be responsible for their certification renewal. The Commission should mail out renewal notices to non-paid fire fighters prior to lapse of certification. Although the Commission will mail renewal notices directly to volunteer fire fighters, the volunteers should be responsible for keeping up their renewal requirements.

If this recommendation is enacted, the certification program will remain optional for volunteer fire fighters.

Fiscal Impact

This recommendation will not result in a fiscal impact to TCFP. Combining paid and volunteer certification programs will not increase the workload of the Fire Service Standards and Certification Division, since it currently handles both programs.

Additional fee revenue will result from this recommendation. According to the Commission, eliminating the employment requirement for recertification will increase the number of certificates issued annually by 1,500. The Commission will have to track and send renewal information for these 1,500 individuals directly to them and verify that these individuals have completed their continuing education requirements. Any cost associated with this additional workload can be offset by the additional \$30,000 in fees expected to be collected by the Commission.

5. Continue the Texas Commission on Fire Protection.

Change in Statute

- **Continue the Texas Commission on Fire Protection for 12 Years.**

This recommendation would result in the Commission having a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of TCFP using the existing organizational structure, its

fiscal year 1997 appropriation of about \$6.7 million would continue to be required for operation of the agency.

6. Allow the Texas Commission on Fire Protection to use Criminal Background Checks Completed by Other Agencies.

Change in Statute

- **Eliminate the requirement that the Texas Commission on Fire Protection perform their own criminal background checks on individuals seeking certification or licensure.**
- **Allow the Texas Commission on Fire Protection to use criminal background checks from other agencies when appropriate.**

This recommendation would end the duplication of separate agencies completing similar criminal background checks on applicants who have applied for certification or licensure with the Commission and other agencies. The Commission would be able to use the criminal background checks performed by other agencies on TCFP applicants, as long as the background check was completed no more than 90 days prior to the application.

Fiscal Impact

This recommendation would reduce the number of duplicative criminal background checks performed by the Commission, resulting on a cost savings to the state. However, the exact fiscal impact cannot be determined at this time.

7. Require TCFP to Establish a Statewide Mutual Aid Program in Coordination with the Division of Emergency Management.

Change in Statute

- **Require the Texas Commission on Fire Protection to establish a statewide mutual aid program with local authorities.**

This recommendation would allow the Commission to take a lead role, with the assistance of local and state authorities, and in coordination with the Division of Emergency Management, in establishing a mutual aid program. The mutual aid program would specify how and when the state will provide emergency assistance to



local authorities during a fire emergency. Such a program would allow local fire services to quickly employ additional aid from other localities and the state during a fire emergency.

Fiscal Impact

This recommendation will not have a fiscal impact.

**Summary of Fiscal Impact
of All Recommendations**

The Commission's recommendations will result in an annual gain to General Revenue of \$181,386.

FY 1998-99 (2 years)	FY 1998-2002 (5 Years)
\$362,772	\$909,930

Texas Commission on Fire Protection	
Recommendations	Across-the-Board Provisions
	A. GENERAL
See Issue 2	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Already in Statute	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Update	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Already in Statute	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.



Texas Commission on Fire Protection	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Already in Statute	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Already in Statute	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Already in Statute	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applied	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Already in Statute	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	9. Require the policymaking body to adopt a system of continuing education.





DEPARTMENT OF INFORMATION RESOURCES

<p><u>General Information</u></p> <p>Statutory Reference Chapter 2054, Government Code</p> <p>Board Composition 9 members</p> <p>Agency Head Carolyn Purcell</p> <p>Appropriation (FY 1996) \$8,423,821 (Includes interagency contracts which account for more than 50 percent of the total.)</p> <p>Employees (FY 1996) 131</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● advises state leadership on information resources projects ● provides leadership and coordination of information resources management within state government ● establishes information resources management standards and ensures compliance by state agencies ● coordinates purchases of computers and software for state and local government
<p><u>Board Members</u></p> <p>Harry Richardson, Chair (San Antonio) Senator Kenneth Armbrister (Victoria) Representative Robert Junell (San Angelo) Representative Scott Hochberg (Houston) Walter A. "Trey" Bradley, III (Carrollton) Jim C. Brunjes (Lubbock) R.D. "Dan" Burck (Austin) Jennifer Stamper, Ed.D. (Mesquite) Dorothy G. Wells (Austin)</p>	

RECOMMENDATIONS

1. Revise the Statewide Planning Cycle for Information Resources Management to Better Coincide with the State's Strategic Budgeting Cycle.

Change in Statute

- require agencies to submit information resources strategic plans on a date set by the Department of Information Resources (DIR). In addition:
 - require the Department to approve information resources strategic plans within 90 days of submission; and

- remove existing provisions that set specific dates for issuing instructions and submittal of information resources strategic plans.
- Require agencies to amend their biennial operating plans when including significant new or changed technology initiatives in their legislative appropriation requests.

The changes set out above are intended to achieve two purposes. First, they will align the timing of information resources strategic planning with the overall strategic planning and budgeting process. Second, the changes will provide the information needed by DIR to effectively assist the Legislative Budget Board (LBB) in the budgeting process. Considering the state's large

investment in information resources, timely planning and submittal of information to support legislative decision-making are essential to ensure appropriate use of limited resources.

Fiscal Impact

The recommendation will not result in any immediate quantifiable savings and is not expected to increase costs to DIR or other state agencies. However, over the long term, having information resources strategic planning occur in conjunction with agency overall strategic planning should yield financial and operational benefits. Also, providing DIR with sufficient information on technology projects to effectively assist in the legislative budgeting process can help ensure that funds are spent wisely.

2. Expand DIR's Role in Providing Quality Assurance Assistance to State Agencies.

Change in Statute

- **Require DIR to establish a comprehensive technical assistance program on quality assurance for all state agencies.**
- **Require DIR, by rule, to establish model guidelines for use by state agencies in developing in-house quality assurance procedures.**
- **Require Information Resources Managers (IRMs) to develop a quality assurance review process based on the model guidelines adopted by DIR and to demonstrate use of quality assurance methods as part of the agency's biennial operating plan submitted to DIR.**
- **Grant DIR rulemaking authority to establish minimum thresholds for risk and cost before formal quality assurance procedures are required.**
- **Authorize DIR to make formal recommendations to state agencies in regard to a state agency's need to initiate quality assurance review efforts. Also, require DIR to report on state agency progress in developing quality assurance review methods in its Biennial Report to the Governor and Legislature on Information Resources Management.**

This recommendation would clarify to DIR and to state agencies that quality assurance is a legislative priority

and not a temporary requirement that expires at the end of the biennium. This recommendation provides DIR with clear statutory direction to assist state agencies in their efforts to ensure that information technology projects receive sufficient oversight. DIR would be able to fully develop the quality assurance approach as a standard Department function and part of its organizational structure and budget.

The Department would adopt rules to define model quality assurance methods that agencies should follow when setting up internal quality assurance reviews. These guidelines would address items such as project development plans, projected benefits, management control processes, projected budget outlay, risk analysis, outcome measures, and post-implementation evaluation report.

Fiscal Impact

Since the quality assurance process is currently saving state dollars, additional savings should be realized as DIR becomes more involved in leading agencies in quality assurance. More projects should be completed on-time and on-budget causing less money to be wasted on high-risk projects. However, an estimate of the potential savings cannot be determined.

DIR will be required to shift some of its current resources to focus on the expansion of quality assurance assistance. However, DIR will need two additional FTE's to ensure development, promotion and implementation of a more comprehensive technical assistance effort for state agencies needing help in the area of quality assurance. The additional staff will result in a cost of about \$87,183 to the General Revenue Fund.

3. Better Address Rapidly Changing State Agency Telecommunication Needs by Focusing the Duties of the Telecommunications Planning Group.

Change in Statute

- **The structure and duties of the telecommunications planning group (TPG) should be improved by:**
 - **establishing the telecommunications planning group as a single entity established in a single statute with a set membership composed of the Comptroller of Public Accounts, the Executive Director of the Department of Information Resources, and**



the Executive Director of the General Services Commission and with the authority to elect a chair;

- **adding the Executive Directors of the Telecommunications Infrastructure Fund and the State Library and Archives Commission to the telecommunications planning group's list of advisory agencies;**
- **clarifying the duties of the telecommunications planning group to require the group to make a comprehensive effort to collect and manage network configuration information about existing and planned telecommunications networks throughout the state;**
- **requiring biennial reports to the Legislature that detail the current telecommunications plan and the progress the state has made towards accomplishing its goals including recommendations for improvements;**
- **granting the group sufficient authority to require needed information from state agencies to carry out its duties; and**
- **specifying that the group must post notices of its meetings using the procedures outlined in the state's open meetings law.**

Clarifying statutory requirements for telecommunications planning function would eliminate duplication and confusion. This change would allow a single group to collect and manage network information about existing and planned telecommunications networks throughout the state for more effective coordination of existing resources. The Department of Information Resources would continue to coordinate staff and administrative support of the planning group. The group should, when collecting information about existing and planned networks, make maximum use of existing reports and collect its information in a manner that is not burdensome upon agencies. The planning group would be subject to provisions requiring posting notice of their meetings and public input. The current advisory agencies to the planning group — the Central Education Agency, Texas Higher Education Coordinating Board, Texas A&M University System and University of Texas System — would continue in their current capacity along with the newly added agencies.

Fiscal Impact

Continuing the planning group would not result in a fiscal impact as the staff support provided by the member agencies would continue. However, these recommendations would result in a positive fiscal impact for the state. The amount of savings cannot be determined at this time as the amount of duplication within existing projects and the number and costs of future projects cannot be estimated. Long-term savings should be achieved through improved collection and management of telecommunications information, and the resulting improvement in planning.

4. Enhance the Training and Role of State Agencies' Information Resources Managers.

Change in Statute

- **Require DIR to conduct a training needs analysis of the state's information resources managers (IRMs) and adjust its training program based on the results of the analysis.**
- **Require DIR to establish mandatory continuing education requirements for information resources managers, and require IRMs to report on compliance with the requirements.**
- **Require DIR, when designing its mandatory IRM training, to include segments on implementation of quality assurance programs, training of end-users, and balancing technical aspects of information systems with agency business needs.**
- **Require each state agency to have its IRM report directly to executive management.**
 - **require each state agency to study the benefits of its IRM reporting directly to executive management and report the results of the study to DIR.**
 - **require DIR to report to the Legislature on the results of agencies' progress toward having IRMs as part of their executive management teams.**

In developing a training program, DIR will need to assess agency IRMs' current level of competency and their training needs. DIR's study is critical to the development of an effective state training program that

fulfills the needs of large to small sized agencies. Based on the study, DIR can then set continuing education requirements that ensure IRMs are trained to deal with ever-changing information technology.

Moving IRMs into executive-level management would ensure their involvement in management decisions that affect the use of information technology. This change will also help ensure that information systems are designed to match agencies' strategic missions. Requiring DIR to report on agencies' efforts in this area will provide the Legislature with information on state agencies' commitment to this important management approach. DIR would include this report as part of their larger report to the Legislature on information resources management.

Fiscal Impact

These recommendations will not result in a fiscal impact to DIR. The Department has a training and education staff that can perform the required study, establish the continuing education program, and make the required report to the Legislature.

State agencies will incur some additional costs in complying with the requirements in the recommendations. The continuing education requirements will necessitate funding of additional training for IRMs. These costs will depend on the training mandated by DIR; therefore, an estimate could not be developed for this report.

5. Restructure DIR Board Membership to Reflect Recent Legislative Changes in DIR's Mission.

Change in Statute

- **Restructure the appointment process for DIR Board members as follows:**
 - **remove the requirement that the Governor appoint members from lists supplied by the Lieutenant Governor and the Speaker of the House;**
 - **remove the requirement that two of the members must be legislative members; and**
 - **add the directors of three state agencies to serve, on a rotating basis, as nonvoting, ex officio members.**

- **Establish the selection process for the Agency Directors by specifying that:**

- **Directors of the Texas Workers' Compensation Commission, Department of Health and Human Services, and Texas Department of Transportation serve for two years;**
- **Directors of the Central Education Agency, Department of Criminal Justice, and Parks and Wildlife Department serve for two years; and**
- **Agency Directors' slots rotate thereafter between the groups every two years.**

- **Allow the agency directors to designate their agencies' information resources managers to represent them at board meetings.**

This recommendation would change the Board's composition to six members appointed by the Governor and three nonvoting, ex officio agency representatives. This increases the Governor's direct appointments from three to six members. The Governor would continue to appoint one Board member who is employed by an institution of higher education. Removing direct legislative involvement in the appointment to and serving on the Board would have little impact on the Legislature's oversight of information resource projects. Funding control is maintained through the legislative appropriation process and DIR is required to report to the Legislature on the status of agencies' technology plans and projects.

The recommendation would allow DIR to benefit from the expertise of state agencies; increase DIR's ability to coordinate information resources among state agencies; and allow agencies to have a greater voice in how DIR operates. The agencies whose Directors are chosen to serve on the Board are among the state agencies with the largest number of full-time equivalent employees and the most significant information resources expenditures. In addition, they represent each of the major functions of state government as defined by the appropriations bill pattern as follows -- the Texas Workers' Compensation Commission (general government and regulatory); Department of Health and Human Services (health and human services); Central Education Agency (education); Department of Criminal Justice (public safety and criminal justice); Parks and Wildlife Department (natural resources); and the Texas Department of Transportation (business and economic development).



To avoid any potential conflicts-of-interest, agency representatives would serve as nonvoting members.

Rotating the six state agency representatives with two-year terms ensures that the Department gains from a variety of expertise. Although the rotation process is unusual when structuring a Board's composition, it will allow a greater number of agencies to lend their experience and insight to DIR.

Fiscal Impact

This recommendation would not have a fiscal impact to the state.

6. Continue the Department of Information Resources.

Change in Statute

- Continue the Department of Information Resources for 12 years.

Fiscal Impact

If the Legislature continues the current functions of DIR using the existing organizational structure, its annual general revenue appropriation of about \$3.3 million would continue to be required for operation of the agency. DIR would also continue to need the approximately \$5 million in interagency contracts and appropriated receipts from other state agencies and local governmental entities that fund the administrative costs of operating the cooperative contracts program and the agency's other cost-recovery services.

7. Improve State Agency Cost Analysis of Alternative Methods of Creating New Informational Systems.

Change in Statute

- Require agencies that are proposing new informational systems to study the comparative benefits of:
 - using in-house expertise compared to an outside contractor for system design, and
 - the lifecycle costs of leasing compared to purchasing the proposed system.
- Require DIR to assist the Legislative Budget Board in evaluating the results of these studies as a part of the appropriations process.

This recommendation would ensure that state agencies adequately study alternative methods of acquiring new informational systems and choose the most cost-effective method.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state. The recommended changes improve and continue processes already in place and will not require additional staff.

Summary of Fiscal Impact of All Recommendations

Although savings cannot be accurately estimated, the recommendations to improve planning and management of information resources should result in long-term savings to the state. Revision of the state's planning cycle should result in more efficient planning at the agency level. More accurate projections of planning costs and project feasibility should occur with changes to the quality assurance process and improvements to the training of information resources managers. Further coordination of telecommunications planning should also increase cost-effectiveness as the state develops its telecommunications technology.

Some costs will also occur as a result of these recommendations. The recommendation to expand quality assurance assistance to state agencies will require two additional FTEs, resulting in a cost to general revenue of about \$87,183. The recommendation to enhance the training and role of information resources managers will not result in fiscal impact to DIR, but may cause some state agencies to incur additional training costs.

FY 1998-1999 (2 years)	FY 1998-2002 (5 years)
\$174,366	\$435,915

Department of Information Resources	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Apply/Modify	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply/Modify	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Provide for notification and information to the public concerning agency activities.
Apply/Modify	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.



Department of Information Resources	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





TEXAS COMMISSION ON JAIL STANDARDS

<p><u>General Information</u></p> <p>Statutory Reference Chapter 511, Government Code</p> <p>Commission Composition 9 members</p> <p>Agency Head Jack E. Crump</p> <p>Appropriation (FY 1996) \$825,916</p> <p>Employees (FY 1996) 21</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● establishes minimum standards for the construction, equipment, maintenance, and operation of county jails ● reviews and comments on plans for construction and major modification of county jails ● establishes minimum standards for the custody, care, and treatment of prisoners and monitors and enforces conditions of confinement ● inspects county jails and assures compliance with established jail standards ● provides consultation and technical assistance to county officials concerning jails 								
<p><u>Board Members</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Judge Larry T. Craig, Chair (Tyler)</td> <td style="width: 50%;">Mr. C.O. Hadnot (Hillster)</td> </tr> <tr> <td>Comm. J.D. Johnson, Vice Chair (Fort Worth)</td> <td>Patrick O. Keel (Austin)</td> </tr> <tr> <td>Charles E. Chatman (Sherman)</td> <td>Dr. Manuel Rivera (El Paso)</td> </tr> <tr> <td>Sheriff Joe Evans (Nacogdoches)</td> <td>Marcia Saunders (Lake Kiowa)</td> </tr> </table>		Judge Larry T. Craig, Chair (Tyler)	Mr. C.O. Hadnot (Hillster)	Comm. J.D. Johnson, Vice Chair (Fort Worth)	Patrick O. Keel (Austin)	Charles E. Chatman (Sherman)	Dr. Manuel Rivera (El Paso)	Sheriff Joe Evans (Nacogdoches)	Marcia Saunders (Lake Kiowa)
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Sheriff Joe Evans (Nacogdoches)	Marcia Saunders (Lake Kiowa)								

RECOMMENDATIONS

1. Close a Loophole that Allows Private Corrections Facilities to Escape Regulation While Accepting Prisoners from Other States.

Change in Statute

■ **Require contractual agreements between private facilities accepting prisoners from other states, the sending state, and the counties or municipalities in which they are located. Specify the special provisions these contracts should have, including:**

- an emergency strategy plan,
- a reimbursement plan, and
- a process for returning prisoners to the sending state when necessary.

■ **Require all adult private facilities outside the TDCJ system to disclose their inmate census to TCJS.**

This recommendation would require privately-owned and operated facilities in Texas to contract with the counties and municipalities in which they are located. The contract must meet TCJS contracting guidelines and include the same standard programs that counties and municipalities include in their contracts with private jails. In addition to these standard provisions, the contract should include special provisions to address the unique circumstances of these facilities. Including an emergency strategy plan would detail how and when local law enforcement officials would be called to assist the private facilities in case of an emergency such as a riot or an escape. The contract should also establish a reimbursement schedule specifying appropriate compensation by the private facility to local authorities.

In addition, the contracts should include provisions for returning out-of-state prisoners to their state of origin if they are involved in an emergency situation or other reasons specified in the contract.

Under this recommendation, private corrections facilities outside of the TDCJ system would have to conform to standards established by TCJS if they accept prisoners from other states. Currently six privately-owned and operated facilities operate in Texas, but only one has housed out-of-state prisoners. This recommendation would require that facility to meet the same level of regulation as all other facilities under the Jail Standards Commission's jurisdiction. Private facilities that are part of the TDCJ prison and jails system or that exclusively hold federal inmates or juveniles would not be subject to TCJS regulations.

TCJS could charge these facilities a fee to cover its cost to inspect and provide technical assistance. This fee would be the same in structure as the fee it already charges for inspecting county and contracted prisons with more than 100 prisoners and 30 percent or more out-of-state inmates.

In addition, this recommendation would require privately-owned and operated facilities that are not contracting with TDCJ to notify TCJS concerning the number and origin of the inmates they are holding. The Commission should determine the appropriate form for this notification by these private facilities. Generally, private facilities should report this information at least annually and before accepting inmates from out-of-state. This census data from private jails in the state would enable TCJS to monitor these providers and determine when they should come under its regulatory authority. This monitoring would ensure that no facilities fall through a regulatory loophole.

Fiscal Impact

No fiscal impact would result from this recommendation. Any additional cost resulting from this activity would be offset by fees assessed by TCJS to cover the cost of inspections and technical assistance provided to private facilities in the state. No fiscal impact would result from the requirement for other private facilities to submit inmate census to TCJS.

2. Require the Commission to Establish a System to Target Inspections of Jails Under its Jurisdiction.

Change in Statute

- **Require the Commission to schedule inspections of jails under its jurisdiction based on compliance history and any other risk factors the Commission determines necessary.**

This recommendation would require the Commission to establish a schedule for conducting inspections of jails under its jurisdiction based on compliance history and other factors it considers to be important. The Commission would allocate staff resources and schedule inspections based on factors that identify which jails indicate the need for heightened attention. These factors could include facility population, facility age, or the classification of inmates held. As part of this recommendation, the Commission would be required to conduct unannounced inspections, though it would not be prevented from conducting announced inspections as it currently does. In addition, the Commission would be authorized to determine the frequency of inspections over time to assure that jails in good standing do not develop compliance problems because of regulatory neglect.

Fiscal Impact

No fiscal impact would result from this recommendation. This recommendation would simply allow TCJS to better focus the efforts of its staff in inspecting facilities under its jurisdiction.

3. Continue the Texas Commission on Jail Standards.

Change in Statute

- **Continue the Texas Commission on Jail Standards for 12 years.**

This recommendation will result in the Commission having a new Sunset date of September 1, 2009. Although the primary functions of TCJS would remain unchanged, Issue 1 would expand the Commission's authority to include privately-owned and operated jails housing out-of-state inmates.



Fiscal Impact

If the Legislature continues the functions of the Texas Commission on Jail Standards using the existing organizational structure, the Commission's annual appropriation of about \$950,000 would continue to be required for the operation of the agency.

**Summary of Fiscal Impact
of All Recommendations**

The Commission's recommendations will not result in a fiscal impact to the state.

Texas Commission on Jail Standards	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Already in Statute	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Already in Statute	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Already in Statute	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Already in Statute	17. Require the agency to establish career ladders.
Already in Statute	18. Require a system of merit pay based on documented employee performance.



Texas Commission on Jail Standards	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





TEXAS JUVENILE PROBATION COMMISSION

<p><u>General Information</u></p> <p>Statutory Reference Human Resources Code, Chapter 141</p> <p>Board Composition 9 members</p> <p>Agency Head Vicki Wright</p> <p>Appropriation (FY 1996) \$103,372,401 (includes \$37.5 million in general obligation bonds)</p> <p>Employees (FY 1996) 41 FTEs</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● provides funding to juvenile probation departments at the county level for probation services such as delinquency prevention, informal probation, and court-ordered probation ● provides training and assistance to juvenile probation boards and departments regarding fiscal management, case management, and delinquency prevention ● establishes uniform probation standards and conducts audits to ensure compliance by local probation authorities
<p><u>Board Members</u></p> <p>Michael L. Williams, Chair (Arlington) Robert P. Brotherton Vice-Chair (Wichita Falls) Eric Andell (Houston) Victoria Baldwin (Austin) Raul Garcia (San Angelo) Keith H. Kuttler (Bryan) Betsy Lake (Houston) Theresa B. Lyons (Ft. Worth) Robert Tejada (San Antonio)</p>	

RECOMMENDATIONS

1. Continue the Texas Juvenile Probation Commission.

Change in Statute

- **Continue the Texas Juvenile Probation Commission for 12 years.**

This recommendation would result in the Texas Juvenile Probation Commission having a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of TJPC using the existing organizational structure, the fiscal year 1996 appropriation for the agency, approximately \$61 million, would continue to be required.

2. Require TJPC to Adopt Specific Reporting and Performance Standards for Local Probation Departments.

Change in Statute

- **Require TJPC to adopt and enforce specific standards relating to the collection and reporting of information on juvenile offenders by local probation departments.**

This recommendation will ensure that the various agencies involved in gathering and analyzing information on juvenile offenders will receive the necessary information from the local departments and improve the quality of TJPC's information. With better statistical information, as well as better information on outcomes of services provided, the state will be better

able to track and predict juvenile crime and population as well as target money to appropriate services.

Adopting specific reporting requirements in agency rule for local probation departments will go a long way towards assisting in implementing the juvenile justice reforms of the last legislative session and improving the juvenile justice system as a whole.

- **TJPC should establish:**
 - **performance measures to determine the effectiveness of probation services, and**
 - **case management standards for all probation services.**
- **TJPC should monitor departments for compliance with these new standards and provide technical assistance to enhance departments' performance.**

These recommendations will improve TJPC's monitoring by going beyond minimum standards to measuring the quality of probation services provided by juvenile probation departments. With 98 percent of juvenile offenders under the supervision of local departments, probation services are the key component of the juvenile justice system that can take action to break the cycle of juvenile crime. Knowing the effectiveness of these services will allow the Legislature to assess juvenile justice system performance and make adjustments to the system to increase effectiveness. This recommendation will also require case management guidelines for departments to follow to achieve the best results working with juveniles on probation.

TJPC should work with local departments to establish the measures of performance and new standards for managing probation cases that will meet the counties' needs and the needs of juveniles on probation. Performance measures are discussed in greater detail as they relate to contracting in Issue 4. In addition, TJPC should provide technical assistance to departments as these changes are implemented.

Management Action

- **TJPC should explore ways to provide financial incentives to counties who meet or exceed standards.**

This recommendation would encourage TJPC to develop an incentive for counties to comply with or even exceed standards. This approach would be an alternative to the

current sanction for non-compliance -- the withholding of state funds.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state and can be implemented with existing staff and resources. TJPC already performs basic data collection and this recommendation only adds new features. In addition, TJPC already has eight staff who monitor local probation departments annually and provide technical assistance. This recommendation simply refocuses TJPC staff efforts.

Counties and local departments could have some additional costs associated with reporting and compliance with performance standards. While these costs could not be estimated, they should be minimal because most local departments already report required information and operate at acceptable performance levels.

3. Pilot an Approach that Targets Funding for the Juvenile Justice System to Better Use Existing Resources.

Change in Statute

- **TJPC and TYC should jointly develop pilot projects where counties, on a voluntary basis, would receive a pool of state funds to be used with local funds to provide a full array of services to juveniles delinquents. The pilot program would contain the following features:**
 - **state funds would be merged with the pilot county's current basic probation funding, including funds received from TJPC;**
 - **participating counties in the pilot would be responsible for all services to delinquent juveniles, including paying for commitments to TYC;**
 - **establish a contingency fund to cover the expenses of special exception commitments to TYC;**
 - **require participating counties to maintain their current funding commitment to the juvenile justice system;**



- **require TJPC, in conjunction with TYC, to establish pilot program rules and standards;**
- **counties in the pilot must represent different geographic regions and population;**
- **participating counties must be in compliance with all applicable TJPC standards; and**
- **require participating counties to report on the use and success of the programs funded through the pilot project.**

The existing Joint Board Committee, comprised of TJPC and TYC Commission members, would make a recommendation to the Legislature on funding for the pilot. Pilot projects would be funded by a reduction in direct appropriations to TYC. The percentage of TYC appropriations used for the pilot project would be determined through the appropriations process. TYC would require a base level of funding to maintain the continuation of services and be given the authority to expend funds collected from the counties for commitments. Additionally, a reserve account would be established, accessible by participating counties, to pay for committed youth if, due to extraordinary circumstances, their allocation under the pilot has been expended. TJPC would adopt rules regarding access to the reserve account.

The pilot projects would be voluntary. Determination of eligibility would be based on the soundness of the programs proposed to be funded and compliance with all applicable standards. Participating counties would be required to document the use of the funds and provide a summary of accomplishments and performance. TJPC and TYC would jointly report on the results of the pilot project to the Legislature by January 2001, including recommendations regarding expansion of the pilot.

Participating counties would use the pooled funds to purchase alternative programs to incarceration, such as electronic monitoring, intensive supervision, or specialized treatment, or they could place youth with TYC. Certain juvenile offenders, specifically some sentenced offenders, would be committed to TYC at no cost to the county. The progressive sanctions model could serve as a guideline to determine which offenders would be committed at no cost.

Providing proper incentives to align resources with needs will allow the state to achieve more with its current resource commitment to the juvenile justice

system. The recent effort to expand capacity within the system has resulted in safer streets and communities. However, this may be short-lived if state efforts do not extend to prevention and treatment. By pooling resources within the system, and allowing greater flexibility at the local level, the state will increase incentives to treat delinquent youth earlier through community services.

If Texas shifted an increasing portion of juvenile justice funding toward community services and programs, the level of services provided directly by the state through TYC would likely fall. As a starting point, counties would be able to provide services to juvenile offenders who were formerly being committed to TYC due to a lack of community services or funds. Under this approach, funds would be made available to create or fund such services. In the long term, increased availability and use of intervention and prevention services would reduce the number of youth committing crimes and being sent to TYC, thus reducing the need for future bed capacity by TYC.

Fiscal Impact

The recommendation for a pilot project would require no additional funds and have no direct fiscal impact on the General Revenue Fund. The recommendation only re-allocates appropriations for the juvenile justice system to focus on probation services. Statewide implementation may require additional state funds.

Potential exists for the saving of state funds if early intervention and prevention results in lower levels of juvenile crime. However, staff did not identify short term savings or costs. Also, the long-term savings in terms of decreased future bed capacity could not be estimated for this report.

4. Ensure that TJPC Continues to Develop and Maintain Sound Contracting Practices.

Change in Statute

- **Specify that TJPC shall include the following standards in each contract for client services:**
 - **clearly defined goals, outputs, and measurable outcomes that directly relate to program objectives;**

- **clearly defined sanctions or penalties for noncompliance with contract terms and conditions; and**
- **clearly specified accounting, reporting, and auditing requirements applicable to funds received under contract.**
- **Require local juvenile probation departments to include the same standards in their contracts with private service providers when state funds are used. Local departments should use performance data to determine which providers receive contracts.**
- **Require TJPC to include the following in contract monitoring:**
 - **a risk assessment methodology to monitor compliance with financial and performance requirements; and**
 - **obtain and evaluate program cost information to ensure all costs, including administrative costs, are reasonable and necessary to achieve program objectives.**

These recommendations will ensure that TJPC maintains and continues to develop sound contract procedures. These recommendations would also ensure a performance-based contracting system for TJPC that will evaluate juvenile probation departments, private contractors, and subcontractors on performance. The current Appropriations Act contains a general rider relating to contracting requirements for all health and human services agencies that includes provisions similar to these. This recommendation would clearly state legislative intent in TJPC's enabling statute. TJPC would be specifically required to ensure processes are in place to effectively contract for client services and hold contractors accountable for the services they deliver. The most significant impact will be ensuring the provision of quality services in the juvenile justice system.

Management Actions

- **TJPC should work with local boards to develop pilot projects that set primary performance goals for contractors and provide financial incentives for meeting and exceeding goals.**

In the pilots, local probation boards should set goals for each contractor and pay contractors based on how well they achieve performance goals. Contractors should be

able to directly affect their measures, but the measures must be closely linked to the mission of TJPC .

TJPC would require contractors to submit quarterly and annual reports that display the progress of the contractor toward the primary performance goals and numerous other factors that relate to effective service. In addition to the primary performance measures, TJPC can learn from other data. This additional information should help TJPC write more effective contracts in the future.

For example, a juvenile probation department could negotiate a contract with a residential care provider that agreed to pay the provider depending on how well the contractor reduced recidivism rates of juveniles under its care. TJPC could set a performance goal in the contract that juveniles under the care of the contractor have an annual recidivism rate 10 percent lower than the county rate for the previous year. The contract would specify that the contractor would be paid 75 percent of the agreed price at the beginning of the process and the other 25 percent only if the contractor meets the performance goal at the end of the year. Again, this concept should be tried by TJPC on a pilot basis to see whether it could work statewide.

Fiscal Impact

The recommendation to improve the contracting process will result in increased efficiency and effectiveness of contracted services. However, savings cannot be determined as the number, value, and savings associated with each type of contract cannot be estimated. Any savings achieved through implementation of these recommendations would be reallocated within the agency for services.

5. Maximize the Use of Medicaid to Reduce Health Care Costs for Youth in the Juvenile Justice System.

Change in Statute

- **Require TJPC to maximize the use of Medicaid funding for health care costs of youth in the juvenile justice system.**

Significant opportunities exist for the state to use federal Medicaid funds to provide health care of many offenders in the juvenile justice system. Every Medicaid dollar accessed frees funds to address the juvenile crime problem. TJPC should continue to work with the Health and Human Services Commission, the Department of



Human Services, the Department of Protective and Regulatory Services, and the Department of Mental Health and Mental Retardation to identify areas where Medicaid could be used cost effectively for youth in the juvenile justice system, and to develop programs to effectively access Medicaid funds. For example, since TJPC must be fully prepared to access the proposed new eligibility determination system once it is available, efforts should be underway to ensure that the new system integrates the needs of TJPC.

■ **Require TJPC to provide technical assistance to counties on Medicaid eligibility for juvenile offenders on probation, and to track counties' use of Medicaid.**

As the agency responsible for providing training and technical assistance to juvenile probation departments, TJPC should continue to help local departments maximize federal funding. Given the complexity of the Medicaid program, TJPC assistance is critical for probation departments to better access Medicaid. In addition, to determine if counties adequately use Medicaid, TJPC must track Medicaid usage and use this information to focus technical assistance efforts.

Fiscal Impact

Increasing Medicaid funding for youth in the juvenile justice system should result in additional federal funds available to juvenile probation departments and the state. The amount of federal funds cannot be determined as the number of juvenile offenders potentially eligible for Medicaid is unknown. However, considering the extremely limited use of Medicaid within the juvenile justice system, significant savings would be expected. As with all Medicaid recipients, the state must provide its share of the match. TJPC should work with the Department of Health and the Health and Human Services Commission to determine which agencies will be responsible for the state match.

6. Strengthen the State's Ability to Identify the Mental Health Needs of Delinquent Youth.

Change in Statute

■ **Require county juvenile probation departments to use the TJPC screening instrument or follow standards set by TJPC for mental health screenings.**

■ **Require county juvenile probation departments to report information regarding results of mental health screenings to TJPC.**

This recommendation would set up a system to ensure that juvenile offenders are appropriately screened for mental health problems when first entering the juvenile justice system. With this information, juveniles can be referred for psychiatric evaluation, if needed. Local departments can also use such information to develop an appropriate approach for sanctions and services to the offender.

Under this recommendation, local juvenile probation departments would use either the TJPC mental health screening tool or a screening instrument approved by TJPC. The use of a mental health screen will allow county probation officers to determine if a juvenile offender needs to be referred for further psychiatric evaluation. TJPC would be required to provide the training necessary to implement the screen.

The information obtained from the routine screens should be reported to TJPC and compiled in a comprehensive report forwarded to juvenile justice officials and other stakeholders. The sharing of this information will provide juvenile justice agencies with the empirical data necessary to deliver appropriate services to youth with mental impairments.

Management Action

■ **TJPC should work with the Texas Youth Commission, Texas Department of Mental Health and Mental Retardation, and county juvenile probation departments to periodically evaluate the effectiveness and usefulness of the mental health screening instrument and standards.**

The Texas Juvenile Probation Commission, Texas Youth Commission, Texas Department of Mental Health and Mental Retardation, county juvenile probation departments and other interested agencies should periodically evaluate the mental health screening tool and standards for reliability and usefulness in obtaining accurate information on the mental health needs of delinquent youth. The first evaluation of the screening tool should take place in fiscal year 1998.

Fiscal Impact

These recommendations will not result in a fiscal impact to TJPC or juvenile probation departments. The TJPC has already developed a mental health screening

instrument and has the staff necessary to provide the training for the use of the screen. Juvenile probation departments already perform an intake assessment of juvenile offenders and including the mental health screening as part of that process should not add additional costs. Mandatory use of a mental health screen may reveal more juveniles in need of mental health services, which could increase local costs. However, costs could be minimized through a reallocation of services or more aggressive use of state-supported services such as the Texas Children's Mental Health Plan or federal programs such as Medicaid.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations could result in a positive fiscal impact to the state through improved contract administration and additional federal funds. However, this impact cannot be estimated.



Texas Juvenile Probation Commission	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Already in Statute	14. Require information to be maintained on complaints.
Already in Statute	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.

Texas Juvenile Probation Commission	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION

<p><u>General Information</u></p> <p>Statutory Reference Chapter 415, Government Code</p> <p>Board Composition 14 members</p> <p>Agency Head D.C. Jim Dozier</p> <p>Appropriation (FY 1996) \$5,270,876</p> <p>Employees (FY 1996) 39</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● establishes standards for the qualifications and training of peace officers, reserve law enforcement officers, and county jailers ● licenses peace officers, reserve officers, and county jailers ● licenses armed public security officers and certifies hypnotic investigators, telecommunicators, and homeowners' insurance inspectors ● conducts research and consultation for the improvement of law enforcement and police administration 														
<p><u>Board Members</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Carl Griffith, Chairman (Beaumont)</td> <td style="width: 50%;">Louis Getterman (Austin)</td> </tr> <tr> <td>Jamerson J. Berry, Vice Chairman (Houston)</td> <td>Felipe E. Garza (Kingsville)</td> </tr> <tr> <td>Dr. Kenneth H. Ashworth (ex officio, Commissioner of HECB) (Austin)</td> <td>Sally Werst (Arlington)</td> </tr> <tr> <td>Karen Greene (ex officio, Governor's Office) (Austin)</td> <td>H.L. O'Neal, Jr. (Lubbock)</td> </tr> <tr> <td>Dr. Michael Moses (ex officio, Commissioner of TWC)</td> <td>Frances A. Kaiser (Kerrville)</td> </tr> <tr> <td>Honorable Dan Morales (ex officio, Attorney General) (Austin)</td> <td>Claudia Bretz (Odessa)</td> </tr> <tr> <td>Colonel James R. Wilson (ex officio, Director of DPS) (Austin)</td> <td>Onzelo Markum, III (League City)</td> </tr> </table>		Carl Griffith, Chairman (Beaumont)	Louis Getterman (Austin)	Jamerson J. Berry, Vice Chairman (Houston)	Felipe E. Garza (Kingsville)	Dr. Kenneth H. Ashworth (ex officio, Commissioner of HECB) (Austin)	Sally Werst (Arlington)	Karen Greene (ex officio, Governor's Office) (Austin)	H.L. O'Neal, Jr. (Lubbock)	Dr. Michael Moses (ex officio, Commissioner of TWC)	Frances A. Kaiser (Kerrville)	Honorable Dan Morales (ex officio, Attorney General) (Austin)	Claudia Bretz (Odessa)	Colonel James R. Wilson (ex officio, Director of DPS) (Austin)	Onzelo Markum, III (League City)
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RECOMMENDATIONS

1. Target Limited Inspection Resources on Academies that are Performing Poorly.

Change in Statute

- **Require TCLEOSE to base the schedule of academy inspections on performance and risk criteria.**

This recommendation would require TCLEOSE to develop a risk assessment tool for inspecting peace officer training academies that incorporates the results from the basic peace officer exam. TCLEOSE would allocate staff resources and set the schedule for inspections and technical assistance based on the results of the risk assessment tool. In developing this approach,

TCLEOSE should include test scores from peace officer licensing exam, past inspections, the self-assessments performed by academies in non-inspection years, and a random element to assure that every academy is inspected over time. The Commission may include additional criteria as needed.

Management Action

- **TCLEOSE should focus its academy inspections on the key components of the training program most associated with producing quality officers.**

Under this approach, TCLEOSE would remove or spend significantly less inspection time looking at items such as overhead projectors, classrooms, break rooms, storage spaces, and parking. Instead, TCLEOSE should use this

time to better assess instructor performance, educational methods, and tools, and to provide technical assistance.

Fiscal Impact

No fiscal impact would be associated with this recommendation. Any staff time saved by not regularly inspecting high performing academies would be used to provide technical assistance, and to more frequently inspect poor performing academies.

2. Continue the Texas Commission on Law Enforcement Officer Standards and Education.

Change in Statute

- **Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 Years.**

Fiscal Impact

If the Legislature continues the current functions of TCLEOSE using the existing organizational structure, continued appropriations of about \$1.8 million per year from the Law Enforcement Officer Standards and Education dedicated account in the General Revenue Fund would be required for operation of the agency.

3. State-Funded or Operated Regional Academy Feasibility Study.

- **The Legislature should not take action to establish or fund state-operated regional training academies at this time.**

The 74th Legislature required the Sunset Commission to study the need for state-operated regional academies. The Commission does not recommend changes to the basic structure and funding of academies. Diversity in the types of academies presently works well for Texas and TCLEOSE possesses the authority to make changes as needed to address future problems, including operating their own training system. Although a state-funded academy system would eliminate local governments' financial responsibility to train its peace officers, this system would not guarantee higher quality training and would be costly to the state.

4. Stagger the Terms of Specialty Group Commission Members.

Change in Statute

- **Require one member representing each specialty group on the Commission be rotated off the board at the same time.**

The Commission is composed of three supervisory officers, three non-supervisory officers, and three public members. Currently, every group member serves and rotates off the commission at the same time. This recommendation would require a board member from each group to serve coinciding terms of office. Allowing one member from each group to rotate off the Commission at the same time would preserve a level of expertise to oversee agency operations.

Fiscal Impact

No fiscal impact would be associated with this recommendation.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations would not result in a fiscal impact to the state.



Texas Commission on Law Enforcement Officer Standards and Education	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Already in Statute	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Update	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.



Texas Commission on Law Enforcement Officer Standards and Education	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applied	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Already in Statute	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applied	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applied	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applied	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Not Applied	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	9. Require the policymaking body to adopt a system of continuing education.



BOARD OF PARDONS AND PAROLES

<p><u>General Information</u></p> <p>Statutory Reference Code of Crim. Proc., Art. 42.18</p> <p>Board Composition 18 members</p> <p>Agency Head Victor Rodriguez, Board Chair</p> <p>Appropriation (FY 1995) \$6,324,820 (included in the appropriation for the Texas Department of Criminal Justice)</p> <p>Employees (FY 1995) 155</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● determines which prisoners are to be released on parole and, in some cases, under mandatory supervision, and sets conditions of parole and mandatory supervision ● makes decisions on whether to revoke parole and send persons back to prison to serve out their sentences if they violate the terms of their release ● makes clemency recommendations to the Governor
<p><u>Board Members</u></p> <p>Victor Rodriguez, Chair (Brownsville) Irma Cauley (Bryan) Bennie L. Elmore (Huntsville) John Escobedo (Huntsville) Gerald L. Garrett (Austin) Donna D. Gilbert (Huntsville) Dr. Mae Johnson Jackson (Waco) Daniel Ray Lang (Houston) Mary Leal (Houston)</p>	
<p>Winona Wilson Miles (Austin) Thomas W. Moss (Amarillo) Paul Joseph Prejean (Beaumont) Gilbert Rodriguez (Abilene) Brendolyn Rogers-Gardner (Duncanville) Albert G. Sanchez (Crystal City) Terri Beard Schnorrenberg (Gatesville) Cynthia S. Tauss (League City) W.G. "Billy" Walker (Tyler)</p>	

RECOMMENDATIONS

1. Restructure the Board of Pardons and Paroles to Better Support its Present Responsibilities and Functions.

Change in Statute

■ **Restructure the Board of Pardons and Parole to:**

- create a six-member Parole Policy Board;
- authorize the Governor to designate the Parole Policy Board members from the 18-member Parole Board in a manner that ensures staggered six-year terms;

- require the Policy Board to hire a Board Administrator to carry out functions of the Board not related to parole decision making; and

- abolish the Board of Pardons and Paroles' Executive Committee.

■ **Charge the Parole Policy Board with:**

- promulgating rules for parole and other policy decisions, establishing caseload for Board members, updating parole guidelines and developing policies for their use;

- **prescribing the form and content of Board activity reports to include information on decisions, workload, and use of parole guidelines; and**
- **reporting annually to the Governor and Legislature on parole release decisions, workloads, and use of parole guidelines.**

This recommendation would retain the Board of Pardons and Paroles as an 18-member Board appointed by the Governor, but would vest all rulemaking, policymaking, and administrative authority in a six-member Parole Policy Board. The remaining Board members would implement the policy decisions of the Policy Board. The Policy Board would also need to decide the respective workload and duties of its members in addition to that of the remaining Board members. For example, while Policy Board members would continue to vote on individual cases, the Policy Board could establish its members as the tie breakers for Parole Board panel decisions.

The Policy Board would be responsible for setting parole precedents to be followed when decisions are made on the granting and revocation of parole. The Policy Board would also ensure that parole guidelines are updated and used by all Board members when making parole granting decisions. The Policy Board would follow all applicable statutes governing the behavior of state boards, such as the Open Meetings Act, and would be required to make annual reports to the Governor and Legislature regarding the activities of the Board, including information on decisions, workloads, and use of parole guidelines.

The recommendation would also require the Policy Board to hire a Board Administrator. The Board's current authority to hire the Director of Hearings and General Counsel would transfer to the Policy Board. The Board Administrator would be responsible for hiring the Board's other staff. The Board Administrator would have responsibility for management of all the day-to-day activities of the Board's staff.

Fiscal Impact

The recommendation to create a Parole Policy Board and charge the Policy Board with promulgating rules would have no fiscal impact on the state.

Requiring the Policy Board to hire a Board Administrator would have a cost to the state and general revenue. The estimated cost would include one full-time

equivalent at an annual cost of \$56,675 for salary, overhead, and benefits.

2. Strengthen Training and Technical Support for Parole Revocation Hearing Officers.

Change in Statute

- **Require all newly hired hearing officers to complete an enhanced training curriculum before conducting unsupervised hearings.**
- **Require all hearing officers to complete an annual training update.**
- **Require the development of a plain language handbook to be used by participants in the hearings process.**
- **Require a biennial update of the hearing officer procedural manual, including updating hearing precedents.**

These recommendations would raise the priority of providing adequate training and sufficient support to hearing officers and the parole revocation process. Requiring all new hires to receive extensive training before assuming hearing duties, and requiring current hearing officers to undergo recurrent training, underscores the Board's current efforts to improve the training curriculum. Newly hired hearing officers would assume a probationary status until the completion of a formal training program. Mandating an improved training regime for hearing officers may require resources to be reallocated from other parole efforts.

Creation of a handbook to familiarize users, such as defense attorneys, parolees, and witnesses, with the hearing process and procedure would improve communication among participants. The process and procedure used in conducting parole revocation hearings would be clearly delineated and participants would be able to develop realistic expectations of the process.

Biennially updating the hearing officer procedural manual would provide for the inclusion of any legislative changes or recent case studies or precedents. Tracking and updating precedents would allow hearing officers to make more standardized decisions that are consistent with Board policy.

The actual responsibility for developing this handbook and updating the procedural manual should go to the



Policy Board, discussed previously, contingent on its establishment by the Legislature. Of course, if the Board is continued in its current organizational structure, the full Board would have this responsibility.

Management Action

- **The Board of Pardons and Paroles should develop and maintain statistical information regarding the disposition of parole revocation hearings and the number and percent of hearing officer recommendations upheld by the Board and decisions challenged in court.**

The current information management capabilities of the Board and Pardons and Paroles is limited and dependent upon support from the Texas Department of Criminal Justice (TDCJ). However, the Board should still consider the information required to administer the revocation hearing process and identify data that will be useful in tailoring their training efforts. Ultimately, additional resources may be required to modernize the current system.

The Board’s history and the frequent organizational upheaval it has experienced emphasizes the need for a consistent management information system. Currently, gaps in data prevents an accurate assessment of performance and need.

Fiscal Impact

This recommendation could result in minimal additional costs for travel and expenses relating to hearing officers attending required training and for development of a handbook. Such expenses can be covered by existing appropriations.

3. Restudy the Board of Pardons and Paroles in Two Years in Conjunction with the Department of Criminal Justice Sunset Review.

Change in Statute

- **Change the Sunset review date for the Board of Pardons and Paroles to 1999.**

This recommendation would require Sunset staff to restudy the Board at the same time it reviews TDCJ next biennium. The focus of this review should be on major operational and organizational issues that affect the overall parole process as it is administered by the Board and TDCJ. This review would not necessarily require restudying issues and functions that are under the clear

authority of the Board, although any issue may be reexamined if it relates to the larger issues affecting the overall parole process. Reviewing the Board simultaneously with TDCJ would allow the Legislature to comprehensively evaluate the efficiency and effectiveness of the organizational structure and operations of the entire parole process.

Fiscal Impact

If the Legislature continues the current functions of the Board of Pardons and Paroles, using the existing or recommended modified organizational structure, the Board’s annual appropriation of about \$6.3 million in fiscal year 1995 would continue to be required for its operations.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations will result in a cost to the state.

FY 1998-99	FY 1998-2002
<u>(2 years)</u>	<u>(5 years)</u>
(\$113,350)	(\$283,375)

Board of Pardons and Paroles	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Modify	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Do Not Apply	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Modify	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Not Applicable	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Do Not Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Modify	16. Require development of an equal employment opportunity policy.
Modify	17. Require the agency to establish career ladders.
Modify	18. Require a system of merit pay based on documented employee performance.



Board of Pardons and Paroles	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





STATE PRESERVATION BOARD

<p><u>General Information</u></p> <p>Statutory Reference State Preservation Board Chapter 443, Vernon's Texas Government Code</p> <p>Board Composition 6 voting members</p> <p>Agency Head Rick Crawford</p> <p>Appropriation (FY 1996) \$1,393,139</p> <p>Employees (FY 1996) 31</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● oversees restoration of the Capitol, General Land Office Building, Capitol Extension, and Capitol grounds ● ensures continued preservation and maintenance of the historic buildings ● develops and maintains a collection of new and historical furnishings, artwork, and artifacts ● educates the public about the restoration and history of the buildings, their contents, and their grounds ● pursues alternative funding from the private sector for the continuing preservation of the buildings, their contents, and grounds
<p><u>Board Members</u></p> <p>Governor George W. Bush, Jr., Chair (Austin) Lt. Governor Bob Bullock, Co-Vice Chair (Austin) Speaker James E. "Pete" Laney, Co-Vice Chair (Hale Center) Senator Mike Moncrief (Arlington) Dealey Dechard Herndon (Austin)</p>	

RECOMMENDATIONS

1. Continue the State Preservation Board.

Change in Statute

■ **Continue the State Preservation Board for 10 Years.**

The Sunset Commission delayed the review of SPB for two years, from 1994 to 1996, to better evaluate the need for the agency after completion of the restoration. This recommendation would continue the Board for 10 years rather than the standard 12 years, resulting in a Sunset date of 2007, so that SPB's Sunset date is realigned with the Sunset dates of the Texas Historical Commission, the Texas State Libraries and Archives Commission, and the Texas Commission on the Arts, as originally scheduled.

Preservation efforts serve the long-term, cost-effective goal of attempting to prolong the future need for

restoration work that has proven so costly. Without preservation efforts, the Capitol could quickly deteriorate into its pre-restoration state — a visual disappointment as well as a safety hazard. By continuing SPB, this recommendation would ensure that the needs of visitors, occupants, and retailers in the building are properly managed by one accountable agency.

Management Action

■ **SPB should more clearly define and formalize its working relationships with other agencies.**

Formalizing its ongoing relationships with other state agencies through memorandums of understanding would ensure that the roles and responsibilities of each agency are clear and understood by both parties. For example, a formal agreement between SPB and DPS would ensure

that each facet of security in the Capitol Complex has been addressed. This recommendation would not require the Preservation Board to execute agreements with agencies that it coordinates with only occasionally or for short-term specified services.

■ **SPB should establish advisory committees to provide input on building management issues and concerns.**

This management action would encourage the Board to use advisory committees to gain public perspective on the operation of the Capitol, as well as the expertise of other agencies, when major policy decisions regarding the use of the building or prospective rule changes are being discussed. This should provide a flexible and inexpensive way for the Board to use advisory committees when appropriate. For example, the Board could appoint public and agency members to short-term advisory committees for specific projects. In this way, the Board could most effectively use the expertise available to it for the long-term preservation of the Capitol Complex buildings and grounds.

Fiscal Impact

If the Legislature continues the current functions of SPB using the existing organizational structure, its annual appropriation of approximately \$1.4 million would continue to be required. If the Legislature funds SPB directly for its maintenance responsibilities, an additional appropriation would be required. SPB has estimated that it will need an additional \$3.6 million to take over those responsibilities from GSC.

2. Allow the Board to Select Designees to Attend Board Meetings in Place of Board Members.

Change in Statute

■ **Allow the Board to select designees to attend Board meetings in place of Board members.**

The Sunset review found that SPB meets relatively infrequently because of the stature of the Board members and their schedules. This has made it difficult for legislators and especially the public to comment on SPB activities. The Legislature has only been able to bring up issues concerning the Capitol Complex through the legislative process. Allowing Board members to select designees to attend meetings would allow the Board to meet more frequently and give legislators and

the public an opportunity to provide more input on the management and operation of the Capitol Complex.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state.

Summary of Fiscal Impact of All Recommendations

Current annual appropriations would continue to be required if the Legislature continues the Board.



TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	Human Resources Code, Chapter 40	<ul style="list-style-type: none"> ● receives and investigates reports of abuse and neglect of children, the elderly, and people with disabilities ● provides in-home and substitute care services for abused or neglected children, elderly people, and adults with disabilities ● licenses and regulates child care facilities, child-placing agencies, and maternity homes ● investigates abuse, neglect, and exploitation within Texas Department of Mental Health and Mental Retardation (MHMR) facilities and community MHMR centers ● provides services to at-risk youth and their families
Commission Composition	6 members	
Agency Head	James R. Hine Executive Director	
Appropriation (FY 1996)	\$523,633,585	
Employees (FY 1996)	6,598	
<u>Commission Members</u>		
Maurine Dickey, Chair (Dallas) Penny Beaumont (Bryan) Jon M. Bradley (Dallas) Catherine Clark Mosbacher (Houston) Bill Sheehan (Dumas) Susan Stahl (Dallas)		

RECOMMENDATIONS

1. **Separate Investigations and Service Delivery to Increase Protection of and Services to Victims of Abuse and Neglect.**

Change in Statute

- **Require that PRS, where possible, separate investigations and service delivery within the Department.**
- **Authorize PRS to continue using caseworkers to perform both investigations and service delivery in service regions where workload does not warrant separation.**

This recommendation would require PRS to expand current efforts to separate investigations from the actual delivery of services to clients and their families. This approach would eliminate the current conflict caseworkers experience when trying to perform both functions and allow PRS to improve the quality of each.

Certain areas of the state, primarily large but sparsely populated rural regions, may not have caseload requirements that could justify separate staff. PRS would have the flexibility to retain general caseworkers to perform both functions in these areas, although PRS should increase investigative training for such staff.

In the APS program, the recommended investigation approach will not have an effect on the majority of cases. Since most APS cases have no perpetrator but involve self-neglect, the APS investigator essentially documents the situation and arranges for services. This recommendation would allow APS to continue to use general caseworkers to perform both functions when appropriate.

To implement this separated approach, PRS would need to develop procedures that provide for an exchange of information between investigations and service delivery caseworkers. For example, coordination will be necessary so that the service delivery caseworker has the

facts of a case to help assess the services needed by a child or the family.

While staff supports separation along functional lines, this recommendation would not require PRS to consolidate. That decision should be made by the Department after studying the effect of such a change in organization.

■ **Eliminate inconsistencies and lack of clarity in the statute regarding parental notification of investigations of child abuse.**

The statute is currently unclear on which parent is notified that a departmental investigation has begun concerning their child. This recommendation will ensure that both parents, including a non-custodial parent, are notified and will clean up confusion as to the timing of notification.

Management Actions

■ **PRS should study the benefits of consolidating the investigative functions of CPS, APS, and CCL into one division within the Department.**

Consolidating all investigations within the Department would unify this function that has been divided by program area since the agency's creation. Many state agencies benefit from dividing their work by function rather than programmatically. PRS would have one division providing this vital function and would be able to concentrate on increasing the skill level of investigators and developing a consistent, agency-wide approach to detecting abuse and neglect. This is not a recommendation to change PRS' statute, but rather a directive that the Department give serious consideration to consolidation along functional lines. The consolidation could be implemented under current statutory authority.

■ **PRS should sufficiently train its investigators to ensure they have expertise to assess allegations and properly substantiate their findings.**

■ **Requirements and length of training of caseworkers should be expanded and new caseworkers should be required to work under close supervision.**

■ **CPS caseworkers should be provided with specialized training to distinguish between those cases that justify attempts to reunite the family and those whose particulars mandate termination.**

■ **Guidelines should be developed using expert models for investigative decision-making in cases of suspected abuse.**

PRS currently provides some investigative training to its caseworkers. However, the amount of time spent on investigative training does not equal the importance of the functions. In addition, the Department does not certify or ensure workers have received training. Consolidation of investigations would allow the Department to develop specialized training for investigators.

Fiscal Impact

The recommendations to separate investigations and service delivery will not result in a fiscal impact to the state. Information obtained from the Department indicates that separating these functions could be accomplished with current resources and would not affect current state/federal funding streams.

2. Improve PRS' Ability to Protect Children and Provide Services to Families Affected by Reports of Abuse or Neglect.

Change in Statute

■ **Authorize PRS to establish a flexible response system to address reports of child abuse and neglect that:**

- **provides for full investigation of serious reports of abuse or neglect; and**
- **allows less serious reports to be addressed through assessing the need for and delivery of social services to the child and the affected family.**

The flexible response system would allow the agency to more appropriately allocate resources — investigating serious cases of abuse and neglect and providing assessment and family preservation services in less serious cases. This process would not be more lenient on suspected child abusers. PRS would be better able to focus investigative resources on Priority I and other serious reports of child abuse and neglect. The process would also allow those cases originally identified as less serious to be easily reclassified and fully investigated. The family would be able to access services almost immediately to prevent further, more serious abuse, and avoid resulting intervention by the state.



One approach to implementing the flexible response system would be a pilot program in a single service region. This approach would allow the Department to study the results of this flexible response system and compare those results with their new staged investigation process. In addition, the Department could redefine the criteria for child abuse and neglect cases to ensure certain kinds of cases would continue to be investigated.

Management Actions

- **PRS should ensure that direct services caseworkers are trained to adequately assess suspected abuse or neglect when dealing with children and families.**
- **PRS should place emphasis on increasing the use of intervention services in dealing with children and families involved in abuse or neglect cases.**

This recommendation offers a significant change to the way PRS currently handles cases of abuse and neglect. PRS would ultimately decide how to implement the recommended flexible response system. However, the following is offered to help the reader understand how this new approach could work.

PRS would use its existing procedure to receive and classify all incoming reports of abuse or neglect. Priority I cases and reports the Department considers to be high or borderline high risk would still be fully investigated, as done currently. However, less serious cases would be treated differently. PRS would use family assessment intervention to respond to these cases. PRS would have the flexibility to identify those cases needing a full investigation and those receiving a family assessment.

Family assessment interventions would be initiated by either contacting the reporting party, any other person who knows the family's situation, or by contacting the family by phone or in person. Before contacting the family, the caseworker would review past CPS involvement with the family, the report, and other indicators of the strengths and weaknesses of the family, such as the criminal history of family members. The caseworker, based on the initial assessment of the report, would decide how soon to visit the family, but in no case longer than five days.

During the assessment with the family, the caseworker would:

- explain the purpose of PRS' involvement with the family;

- determine the family's knowledge of the allegation and any report identified problem;
- conduct an assessment of risk and the perceived needs of the child and family in a manner that is sensitive to the family's social, economic, and cultural environment; and
- explain the possible services and outcomes of the Department's response.

Families eligible to receive immediate help would be provided Departmental or community-based services according to a case management plan developed by the caseworker.

A family assessment visit would be completed within five days from receipt of the report, five days sooner than the current deadline of 10 days for responding to Priority II reports. Based on results from the staggered implementation, PRS could revise the optimum time to begin the family assessment intervention.

If the family chooses not to cooperate with the caseworker and the family poses an actual or potential risk to the child, the report would be investigated. If the worker believes a report, originally assigned for service delivery only, involves serious abuse or neglect, then the case is switched to Priority I classification and fully investigated. If the family chooses not to cooperate and the child faces no probability of harm, the caseworker would close the case. The caseworker, as an employee of PRS, would still be authorized to remove the child from the home immediately, if needed. Caseworkers would need sufficient training to adequately assess abuse or neglect that should be more fully investigated.

This new process would protect the child in situations of alleged child abuse and neglect by initiating services earlier but without the antagonism of a full investigation. Allowing a caseworker, trained in detecting abusive environments and assessing current risk to the child, to enter the home and offer services to the family would keep the child's family system stable and intact.

This report also includes a recommendation that PRS separate the investigation of reports of abuse from direct delivery of service. That approach is essential to constructing an effective dual response system, as recommended in this issue. For that reason, the two recommendations should be considered together when evaluating the merits of this recommendation.

Fiscal Impact

The fiscal impact of the recommendation authorizing PRS to implement a flexible response system cannot be determined as the cost of providing a family assessment cannot be estimated. The Department should use a pilot program to determine not only the effectiveness of the flexible response system, but also the fiscal impact.

3. Remove Obstacles to Allow Quicker Permanent Placement for Children in PRS Conservatorship.

Changes in Statute

- **For children in PRS conservatorship, require either termination of parental rights or reunification with the family within 12 months.**

This recommendation will require the courts to hold a hearing on permanency within a year from removal and either set the case for a trial on termination of parental rights or return the child to the family. By determining permanency for the child at 12 months, the need for future hearings would be eliminated, reducing the burden on the courts. The parties would be encouraged to move towards permanency faster if a permanency plan becomes definite earlier. Under exceptional circumstances, and in keeping with the best interests of the child, a court could grant extensions.

- **Allow termination of parental rights if a parent fails to complete the court-approved service plan.**
- **Base the termination grounds only on provisions of the service plan that have been incorporated into a court order requiring specific actions from the parent.**

If a parent is clearly not substantially complying with the steps set out in a court approved service plan to provide a safe home, parental rights should be terminated so that the child can move to a permanent home. Failure to comply with a service plan within a year would be considered as a “substantial risk” that the child will be further abused or neglected, thus becoming a ground for termination of parental rights.

This change would free many children for permanent placement. As of March 1996, 2,300 children had permanency plans to be reunited with their families, but have remained in foster care over one year. This

recommendation will also stress to the parents the importance of quickly complying with the service plan.

Management Actions

- **Require PRS to study the feasibility of setting up Special Master court programs in the regions and report to the 76th Legislature.**

This recommendation will require the Department to look at examples of court masters programs being used in Texas and other states and evaluate the benefits and practicality of implementing such programs in other areas of the state. PRS would make recommendations to the Legislature on whether the program should be created and funded.

- **PRS should develop a systematic approach to assessing a child’s needs at the time of removal from the home.**
- **PRS should analyze the effectiveness of using children’s assessment centers and placement teams to evaluate a child before placement.**

Standard assessment procedures are necessary to ensure accurate initial assessments and service plans. This decision should not be left up to a single caseworker who may have limited knowledge about a child. Appropriate initial assessments improve treatment, decrease the time children spend in care, and ensure that state resources are directed toward meeting children’s needs. Assessment centers and special placement teams have the potential to improve this process. PRS should see whether use of this approach should be expanded.

Fiscal Impact

The recommendation to speed up the permanent placement of children would have a positive fiscal impact to the state. PRS could achieve savings of approximately \$65 million a year as a result of setting a time limit of 12 months for either terminating parental rights or reuniting the child with the family. The cost savings was estimated using the number of children in substitute care over 12 months and applying the average foster care cost of \$1,385 per month by the nine month reduction. The estimate was adjusted for implementation costs and for exceptions to the 12-month deadline. All savings achieved through this recommendation would be reallocated within PRS for client services.

Other recommendations, such as allowing termination of parental rights for failure to meet service plan



requirements and thoroughly assessing children's needs when they first enter foster care, may also result in savings related to speeding permanent placement of children. However, the specific fiscal impact of these recommendations cannot be determined.

4. Improve PRS' Adoption Process Through Better Coordination of Adoptions and Increased Use of Private Adoption Agencies.

Change in Statute

- **Improve the PRS adoption process by requiring the Department to:**
 - create a centralized tracking and monitoring system;
 - set goals and performance measures to be tracked through the system; and
 - develop an approach to address failures by regions to place children for adoption within a reasonable period of time.
- **Increase use of private adoption agencies by requiring PRS to:**
 - seek a private agency to place a child that has been available for adoption over 90 days;
 - make information on children available for adoption over 90 days accessible to private adoption agencies; and
 - create financial incentives for rapid placement of children by private adoption agencies.
- **Require PRS to encourage foster parents to be dually licensed as foster and adoptive parents.**
- **Require PRS to begin the search for prospective adoptive parents when it has decided to petition the court for termination of parental rights and to present to the court a report on the child's adoptability and any prospective parents.**

This recommendation would require PRS to develop a system to monitor and track adoptions statewide, identify and assist service regions that do not place children quickly, and require the participation of regions in a statewide adoption resource system. In addition, a

greater emphasis would be placed on the use of private adoption agencies. If a PRS service region does not place a child within 90 days, a private adoption agency would be allowed to place the child and would be paid a fee based on the amount of time spent placing the child. This recommendation would also encourage PRS foster parents to pursue adoption. This will represent a change in philosophy in some PRS service regions.

Creating a statewide, monitored system for placing children and using every available resource, would significantly help Texas children find a permanent home and reduce the amount of money the state pays to keep them in foster care.

Management Action

- **Establish incentives for PRS regions with successful adoptive outcomes.**

Fiscal Impact

Improving PRS' adoption processes will have a positive fiscal impact on the state. The recommendation would reduce the length of time a child would stay in substitute care. The cost savings of this recommendation cannot be determined as the number of months a child would have to wait to be adopted cannot be estimated. All savings achieved through reduction in substitute care costs would be reallocated within the Department for client services.

5. Improve the Way that PRS Manages Contracts.

Change in Statute

- **Require PRS to include the following standards in each contract for the purchase of program-related client services:**
 - clearly defined goals, outputs, and measurable outcomes that directly relate to the program objectives;
 - clearly defined sanctions or penalties for noncompliance with contract terms and conditions; and
 - clearly specified accounting, reporting, and auditing requirements applicable to funds received under the contract.

■ **Require PRS to include the following in contract monitoring:**

- **use a risk assessment methodology to monitor compliance with financial and performance requirements under the contract; and**
- **obtain and evaluate program cost information to ensure all costs, including administrative costs, are reasonable and necessary to achieve program objectives.**

The current appropriations act contains a general rider relating to contracting requirements for all health and human services agencies that includes provisions similar to these. This recommendation would clearly state legislative intent in the agency's enabling statute. PRS would be specifically required to ensure it has the processes in place to effectively contract for client services and hold contractors accountable for the services they deliver. The most significant impact will be ensuring the delivery of quality care to the agency's clients.

Management Actions

■ **Require the PRS Board and the Department's executive management to establish objectives for contract administration and communicate these objectives to PRS staff and contract providers.**

The Board and executive management of the Department should clearly define expectations related to contract administration. Objectives should clarify the purpose of strengthening contract development and monitoring, including establishing clients, not providers, as the first priority in the contracting process. Formal objectives will provide context for changes in agency structure and procedures experienced by program and contract staff, and providers that contract with the Department.

■ **PRS should centralize the oversight of contract administration functions by placing primary responsibility for all service contracting in the state office at the executive management level.**

Centralization of contract administration functions will decrease the potential for inconsistent selection and monitoring of contractors at the regional level and from program to program. Placing the contract administration function at the executive management level will clarify the authority of the function and ensure visibility.

■ **PRS should require program directors to provide feedback to the Executive Director or contract staff concerning the impact of contract activities on service delivery.**

This recommendation would ensure the development of contracting policies and procedures includes the input of program staff. Discussions in periodic meetings will identify potential conflicts between program and contracting objectives.

■ **PRS should separate responsibilities and authority for components of the contract administration system between the state office and the regions.**

The role of the state office should be to incorporate guidance from executive management into processes and resources that support the achievement of department objectives. The role of regional staff should be to implement official policy; facilitate interaction between clients and contractors; and obtain, review, and report financial, output, and outcome data. A contracts specialist should be formally designated in each region to ensure central policy is incorporated into regional contracting activities.

■ **Require the efforts of the contract administration functions to be coordinated with the Department's internal audit function.**

Given the high profile, high risk nature of the Department's programs and related contracting, internal audit should appropriately evaluate the performance of contract administration and regularly provide management with an independent assessment of the operations.

Fiscal Impact

This recommendation to improve the contracting process would result in positive fiscal impacts to the Department and the state. The recommended contract oversight system could be administered using existing contract administration staff. Based on similar contract administration efforts in private industry and in other government agencies, the Department could expect to achieve significant savings. Total savings cannot be determined as the number, value, and savings associated with contracts cannot be estimated. Any savings achieved through implementation of this recommendation would be reallocated within the Department for client services.



6. Improve the Foster Care System by Measuring the Quality of Care Through the Contracting Process.

Change in Statute

- **Require PRS to:**
 - **assess the need for foster care services throughout the state and contract with providers to match the needs identified; and**
 - **take into consideration the local community's ability to support a facility and its clients before entering into a contract.**
- **PRS should structure its contracts for services so that providers are held accountable to measures that indicate the effectiveness of services provided to children in foster care.**
- **PRS should monitor provider performance and ensure that performance is a factor in any future contract decisions.**
- **PRS should include terms for sanctions and possible termination in all foster care contracts.**
- **Before licensing or expanding the capacity of a foster care facility or home in a community, PRS should be required to notify community residents of the pending application and to conduct a public hearing to consider local community impact, support, and resources in reviewing the application.**
- **Require PRS to conduct an analysis of the local school district's ability to support a residential treatment center and its clients before entering into a contract with that facility covering the next school .**
- **In deciding whether to license or to increase the capacity of a foster care facility, PRS should be required to consider the extent to which additional special education pupils coming into the community through the facility would impact the local school district's current ratio of special education to regular education pupils.**

These recommendations will require PRS to implement a contracting process that allows the agency and the Legislature to evaluate the effectiveness of contracted foster care and lays the foundation for the future direction of the Texas foster care system. This approach represents a departure from the current open enrollment

process to one in which PRS contracts for foster care placements when and where it needs those services. In areas where there are an abundance of providers, contracting only for services needed will create competition in the industry. Since rates are standardized, the competition will focus on quality of care.

Establishing a contracting process for foster care services which evaluates how effectively children are being served also represents the first steps toward developing managed care or other initiatives to make the foster care system more cost-effective while maintaining high standards for care. A sound contracting process which focuses on measuring quality outcomes is critical for PRS to move forward with a Request for Proposal process, managed care system, or any type of increased reliance on the private sector for services.

As PRS noted in its recent internal functional review, putting this type of contracting system in place will improve outcomes for clients, increase accountability, and allow the agency to increase the number of clients served within present funding levels. At the same time, a comprehensive assessment of where, how many, and what types of residential care providers are needed throughout the state will enable PRS to identify needs and plan the development of the system accordingly. Consideration of the effect on the community of any new contract, such as for residential treatment centers, should be included in this assessment. Evaluation of the community's capacity to support a facility is needed because local support is critical to successfully meet the needs of children in residential treatment facilities.

- **PRS should develop outcome measures to be included in agreements with PRS foster families.**

Once outcome measures are established for contracted foster care providers, similar measures should be developed to apply to children in PRS foster homes. Although PRS foster homes mostly provide basic care for foster children who do not have severe treatment needs, about half the children in foster care reside in PRS foster homes. These children should not be exempt from the close monitoring and evaluation of the effectiveness of care that is expected in contracted care situations.

As children go from placement to placement, they may go from contracted care to PRS foster homes. To ensure continuity in the system, PRS foster homes should have measures to determine how well a child is doing in the foster care setting. Just as providers of contracted foster care will be held accountable for the children in their

care, PRS should be held accountable for closely monitoring children in its foster homes.

Management Actions

- **PRS should develop special standards for tent camps that must be met for the camp to be eligible to receive placements of children by PRS.**
- **PRS should be required to measure the effectiveness of therapeutic tent camps.**

Fiscal Impact

This recommendation could result in positive fiscal impact to the Department and State. The fiscal impact of this recommendation to improve the quality of foster care cannot be determined because the number of children and length of stay in foster care cannot be estimated. However, a monthly average of 11,700 children are in paid foster care with an average monthly cost per child of \$1,385. Improving efficiency and quality of services could result in significant savings as children spend less time in higher levels of care and move to permanent placement more quickly.

For example, a child that spends 90 days at Level of Care 6 costs PRS \$16,904. If the child receives high quality services and progresses to Level of Care 5 after 45 days it would reduce costs by about \$4,000 for the same 90-day period. Any savings achieved through implementation of these recommendations would be reallocated within the Department to provide client services.

7. Improve Investigations of Abuse, Neglect, and Exploitation in MHMR Facilities and Community Centers.

Change in Statute

- **Authorize PRS, through rules, to prioritize investigations of incidents of abuse, neglect, or exploitation in MHMR facilities and community centers.**

Allowing APS to prioritize investigations would ensure that those persons most seriously abused or neglected would receive the highest priority and be protected immediately. Prioritizing would ensure consistency throughout the intake and investigation processes not only between APS and CPS, but also with other health and human service agencies that perform facility investigations.

Requiring PRS to adopt the priority system through the rulemaking process would ensure that the system developed is responsive to the concerns of MHMR, advocacy groups, and clients and their families. PRS would have the flexibility to set up this priority system and is currently exploring several different options with representatives from the Legislature and advocacy groups.

- **Require PRS and MHMR to develop and implement a common system of tracking investigations of client abuse, neglect, and exploitation and classifying the results of the investigations.**

PRS and MHMR have agreed to use a single database for reporting incidents, the Child and Adult Protective System as of June 1, 1996, and are currently developing this system. The statute should ensure that this coordination takes place and continues in the future. This recommendation would ensure that the agencies continue to use comparable data to measure the outcome of investigating abuse, neglect, and exploitation within MHMR facilities and community centers. This recommendation would also ensure that PRS and MHMR maintain consistent data over time.

- **Allow only MHMR's state office to overturn PRS' investigative findings for cause in MHMR facilities. Require MHMR to report to PRS when the Department's investigatory findings are overturned and the reasons for the decision.**

This recommendation formalizes MHMR's recently adopted policy of allowing PRS' findings to be overturned only by the state MHMR office.

Management Actions

- **PRS should enhance training of its MHMR investigators to ensure good quality investigations.**

The agency should make training of its MHMR investigators a priority, especially in the areas of interview protocol and investigative report writing. PRS may call upon other state agencies that do facility or civil investigations for advice in developing and maintaining an effective, on-going training program, including the Department of Human Services, the Department of Health, and the Office of the Attorney General. Further, the Department should accept the offers MHMR advocacy and support groups have made to assist PRS with training.



- **Require that the Texas Department of Mental Health Client Abuse and Neglect Registration System remain fully operational until such time that the single data base for reporting incidents, the Child and Adult Protective System has the capability to capture all necessary information needed for MHMR management uses.**

Fiscal Impact

Improving investigations in MHMR facilities and community centers would not result in a fiscal impact to the state. These recommended changes will strengthen the PRS investigative process already in place and can be accomplished with existing staff and resources.

8. Require PRS to Better Coordinate Protective Services with Mexican Authorities.

Change in Statute

- **PRS should coordinate and enter into agreements, where appropriate, with Mexican authorities to ensure the delivery of child and adult protective services along the border.**

This recommendation would require PRS to address the unique circumstances of providing protective services along the Texas-Mexico border. After studying the problems its child and adult protective programs face in serving clients of foreign citizenship or in a foreign country, PRS would be required to develop effective methods for working with Mexican authorities in the twin border cities of Texas and Mexico.

Fiscal Impact

Conducting the study on improving coordination will not have a fiscal impact. PRS has indicated it can study the border issues using existing resources.

9. Require PRS to Develop an Outreach Program to Assist Counties in Accessing Federal Funds.

Change in Statute

- **Require PRS to develop a standardized outreach program to provide counties with information and technical assistance on all federal funding resources available to them.**

This recommendation would require PRS to develop a standardized, statewide process to provide information and technical assistance to counties related to federal assistance programs.

The assistance program should include the designation of contacts at the county level and within PRS. A statewide coordinator should be designated in the central office to work with the federal programs and personnel in each region and to develop methods for educating counties. PRS should also develop a data base containing key personnel in counties, type of assistance provided, and the date contacted.

PRS should work with the LBB to ensure that federal funds going directly to the counties are identified and noted. Counting federal funds provided to the counties as PRS funds could inappropriately inflate PRS receipts and result in a reduction in state funding. If this were to happen, these new federal funds accrued by the counties would not enhance PRS services, but would reduce PRS resources.

Fiscal Impact

Improving outreach to counties would not result in any fiscal impact to the state; however, significant federal dollars could be made available to participating counties in the form of reimbursed dollars or enhanced services. The amount of federal funds that counties could receive cannot be determined as the participation rate for counties and funds spent cannot be estimated.

Historical data on counties participating in the County Reimbursement Program indicates that qualifying county expenditures can be reimbursed with federal dollars at rates of 50 to 75 percent. Participating counties received almost \$1 million in reimbursement in fiscal year 1995. Counties that participate in the County Contribution Program are receiving \$1 dollar worth of services for each 57 cents of county expenditure and received an additional \$1.4 million in staff/services for fiscal year 1995.

10. Provide PRS with Authority to Assess Administrative Fines in its Child Care Licensing Program.

Change in Statute

- **Authorize the Department to assess administrative penalties of up to \$100 per violation, per day for violations of the statute and PRS rules.**

- **Require PRS to develop a schedule of fines tied to the severity and frequency of the offense and repeat violations.**
- **Allow PRS to charge facilities for the reasonable costs of formulating and monitoring corrective action plans.**
- **Require all fines be deposited in the General Revenue Fund.**
- **Clarify that all child care licensing sanctions also apply to registered facilities.**

The Department's administrative penalty authority would be modeled after the standard Sunset approach used in the past for other regulatory agencies. This approach would provide an administrative review process to ensure that each violator is afforded due process. The statute would contain guidelines PRS would use when determining the amount of the penalty. The PRS Board would be authorized to set fines to fit the severity of the violation, considering the history of the violator and the extent to which the violator may have acted without knowledge or intent to violate the law. The Board would be required to establish a standard method for using administrative penalties, including penalty ranges for different types of violations. None of the recommended changes would affect the Department's ability to revoke or deny a license or to seek a court order to close a dangerous facility.

The \$100 penalty limit is based on the seriousness of violations when compared to the limits provided for other agencies. The penalty amount was also compared to current civil penalty limits specified for violations of the Department's statute and rules. Allowing a range for the penalty amount will allow the Department to assess penalties that fit the seriousness of each violation and deal with repeat offenders. Allowing PRS to charge facilities for the costs related to administering corrective action plans will act as an additional disincentive to facilities who continually fail to comply with the minimum child care licensing standards. These funds could be used to hire additional staff solely responsible for administering corrective action plans. This would allow existing licensing staff to focus on routine monitoring and inspection activities.

Clarifying that all child care licensing sanctions apply to registered facilities will ensure consistent regulation of both family homes and licensed facilities. This clarification would also eliminate any confusion as to the Department's authority to regulate registered facilities.

Fiscal Impact

The recommendation allowing PRS to use administrative fines would result in a positive fiscal impact to the state. The authority to levy penalties would result in increased revenue to the General Revenue Fund. The exact amount cannot be determined as the number of violations, frequency of violations, and amount of penalties cannot be estimated. Although not required by this recommendation PRS could request that revenue generated by charges for corrective action plans be appropriated to the agency.

11. Improve the Handling of Complaints by Developing a Coordinated Statewide Complaint Resolution Process.

Change in Statute

- **Require the Department to develop a centralized complaint tracking system.**

This recommendation will provide consistency in the agency's complaint resolution process and satisfy statutory requirements. The state office will maintain records on complaints received by the state office and from regional offices. Reports on complaints would then be compiled and periodically provided to the Executive Director and the Board.

- **Require the Department to develop a consistent, statewide complaint resolution process.**

This recommendation will require the agency to develop a more formalized complaint process with consistent procedures for complaint intake and resolution for use throughout the regions. Components of this complaint process should include a process to provide specific information to complainants about the complaint process and assistance in filing the complaint, use of a form which captures standard information about the complaint, and quarterly notice to the complainant of the complaint's status.

- **Require the Executive Director to develop a process for appeals of complaint resolution decisions.**

The Executive Director should institute a clear and consistent process to provide a forum for appeals by complainants who are not satisfied with the outcome of their complaint at the regional level. As discussed below, the Ombudsman's office should not play a role in hearing appeals on such complaints.



Management Action

- **Require the agency to clearly define the role of the Ombudsman.**

The current system of complaint resolution and the Ombudsman's role within it are unclear, making the Ombudsman's Office somewhat ineffective and resulting in confusion about the entire complaint process. With a defined role and clear objectives, the Ombudsman's Office could provide the agency with a useful tool in managing complaint information and in assisting complainant's appeals. Possible roles for the Ombudsman's office could include the central repository for all information on complaints and legislative inquiries, analysis of data on these complaints and inquiries for distribution to the Board and management, and assisting complainants with the filing of complaints and tracking the progress of their complaints. However, the Ombudsman's Office should not hear appeals of how the agency resolved a complaint. If the Ombudsman is involved with helping complainants and tracking the progress of complaint resolution, the Office would not be in a position to judge the merits of the Department's disposition of complaints.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state. The recommended changes involve improving processes already in place and will not require additional staff.

12. Increase Return on Technology Investments Through Centralized Accountability and Management of Information Systems.

Change in Statute

- **Require PRS to establish a strategic technology steering committee.**

The committee would be responsible for evaluating all major automation project proposals as to: assessing information needs, defining standard criteria for prioritization, forecasting returns on project investments, and investigating available resources. The committee would also make recommendations to the Executive Director and define review thresholds for projects. The agency Information Resources Manager would chair the committee with membership including senior management, information resources staff, and representatives of the primary users.

Management Actions

- **PRS should assign all system development staff to the Information Resource Technologies Division.**

While each division retains its own budget for technology projects, agency staff involved in system analysis and development should reside within IRT. In this manner, IRT retains control over the accuracy, security, compatibility, and integration of systems. Other divisions are responsible for identifying functional requirements for their projects and funding the necessary hardware and software.

- **The IRT Division should assign project managers for all systems under development that the strategic technology steering committee has assessed and executive management has approved.**

IRT should establish a reasonable limit for the number of projects assigned to each project manager based on the technical complexity of the project, the complexity of the arrangement with any contractors, and the administrative duties required of the project manager.

- **The Department should undertake a comparative cost analysis of all existing outsourcing arrangements including the interagency agreement with DHS for information technology support and the contract with Andersen Consulting for ongoing support of CAPS.**

This analysis should evaluate the cost effectiveness of alternatives for the services including in-house operations and outsourcing to another agency or a private vendor. Any modifications to the agreements should be coordinated through the Department's contracting function to ensure the contracts contain adequate service level agreements and appropriate sanctions for non-performance.

Fiscal Impact

The statutory recommendation to establish a strategic steering committee would not result in additional costs. Management recommendations could produce savings in the long-run. Technology resources currently absorbed by CAPS should become available for other projects as CAPS nears implementation in the Fall of 1996. Better management of technology could reduce additional expenditures for projects that do not meet projected implementation time lines and budgets.

13. Improve the Administrative Hearings Process Through Transfer to the State Office of Administrative Hearings.

Change in Statute

- **Transfer the Department's Administrative Procedure Act hearings to the State Office of Administrative Hearings.**
- **Ensure that all parties to a hearing are timely notified of the proceedings.**

This recommendation would transfer the Department's APA hearing function to the State Office of Administrative Hearings. In conducting hearings, SOAH would consider the applicable substantive rules or policies of PRS. In this way, PRS would still determine how broader policy matters or recurring issues will be treated by administrative law judges. As with the current hearings process, the decisions by the ALJ would be final unless appealed to court.

The personnel grievance hearings held by the Department's ALJ would be reassigned to other qualified legal personnel within PRS. As with most transfers of hearings to SOAH, the cost of conducting a hearing would be paid through an interagency contract between the two agencies. The hearings conducted to remove a child from the home or a guardianship hearing for the elderly are not governed by the APA and would not be subject to the transfer.

Fiscal Impact

The fiscal impact of transferring administrative hearings to SOAH cannot be determined at this time. The specific costs to conduct the hearings would depend on the structure of the interagency contract between the Department and SOAH. The elimination of the ALJ function at the Department would provide savings of approximately \$76,000. This money could be used to pay SOAH for services provided under the contract.

Historical data indicates that costs related to administrative hearings transferred to SOAH have been reduced by approximately 27 percent. Any savings achieved through the transfer to SOAH would be reallocated within the Department for client services.

14. Continue the Texas Department of Protective and Regulatory Services.

Change in Statute

- **Continue the Department of Protective and Regulatory Services for 12 years.**

This recommendation would continue PRS to ensure that the state has a process for investigating abuse and providing services to victims and their families. PRS would continue to regulate child care facilities, foster families, residential treatment centers, and maternity homes. However, for PRS to effectively perform these critical functions, the Department needs to address some fundamental management and system problems as identified throughout the report.

As for reorganization, PRS has still not justified that a separate agency is the best way for Texas to provide protective services. The Sunset Commission will consider the location of protective services within the state's health and human service system during the next biennium when other health and human service agencies are under Sunset review.

With the lingering questions regarding PRS' status as an independent agency, the recommendation for a 12-year Sunset date needs some explanation. The Commission has reviewed PRS programs and made its recommendations. Reorganization needs to be considered in two years when the state's other related agencies are under review. This evaluation may occur, under the provisions of the Sunset Act, without a specific Sunset review date. By extending the Sunset date for PRS by only two years, the Commission would have to review all PRS operations again in the next Sunset review cycle. Fully re-evaluating PRS in the next cycle would unnecessarily divert resources from reviewing the other 29 agencies already scheduled.

Fiscal Impact

If the Legislature continues the current functions of PRS using the existing organizational structure, the Department's annual appropriations of between \$520 and \$540 million would continue to be required.



15. Ensure that PRS does not Maintain Records on Individuals Falsely Accused of Sexual Abuse of a Child.

Change in Statute

- **Require PRS to assist all individuals accused but cleared of sexual abuse of a child to expunge their records on matters within PRS' jurisdiction from PRS' database.**

This recommendation would help ensure that PRS would not continue to maintain records on individuals cleared of child abuse allegations after an investigation. PRS must assist these individuals to expunge their records from the Department's database.

Fiscal Impact

This recommendation will not result in a fiscal impact to the state. The recommended changes involve improving processes already in place and will not require additional staff.

16. Ensure that PRS Considers Biological Parents as Placement Options for Children.

- **Encourage PRS to place a child that has been temporarily or permanently removed from the home of a custodial parent due to an abuse investigation, with a qualified non-custodial parent before placing the child in a foster care home.**

This recommendation would help ensure that PRS considers non-custodial parents as a placement option for a child before placing the child in foster care.

Fiscal Impact

Although savings to PRS could be achieved on foster care payments if PRS places a child with a biological parent, this amount cannot be estimated.

Summary of Fiscal Impact of All Recommendations

Two recommendations contained in this report could achieve total savings of approximately \$60 million annually to be reallocated within the Department for client services. These recommendations require PRS to address permanency placement of children in PRS conservatorship and transfer administrative hearings to SOAH. Other recommendations could result in savings that cannot be estimated.



Department of Protective and Regulatory Services	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Update	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Already in Statute	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Update	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Already in Statute	18. Require a system of merit pay based on documented employee performance.



Department of Protective and Regulatory Services	
Recommendations	Across-the-Board Provisions
	B. LICENSING - Facilities
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Apply	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.

Department of Protective and Regulatory Services	
Recommendations	Across-the-Board Provisions
	B. LICENSING - Administrators
Update	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Already in Statute	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Apply	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Apply	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Update	9. Require the policymaking body to adopt a system of continuing education.

TEXAS PUBLIC FINANCE AUTHORITY

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	Art. 6011d (V.T.C.S.)	<ul style="list-style-type: none"> ● issue bonds to finance capital projects and equipment acquisition for state agencies ● process and review applications from state agencies for debt financing of capital projects and equipment ● maintain cost controls over bond issues ● manage bond proceeds and monitor covenants to ensure compliance ● make bond debt service payments in compliance with bond covenants
Commission Composition	6 members	
Agency Head	(Open)	
Appropriation (FY 1996)	\$605,204 (operating expenses) \$240,883,873 (general obligation bond debt service) \$31,165,314 (revenue bond debt service)	
Employees (FY 1996)	14	
<u>Commission Members</u>		
John C. Kerr, Chair (San Antonio)		Robert B. Davis (Austin)
Cheryl D. Creuzot, Vice Chair (Houston)		Peter C. Lewis (Dallas)
Daniel H. Branch (Dallas)		Marc R. Stanley (Dallas)

RECOMMENDATIONS

1. Consolidate Bonding Authority of Agencies with Small and Infrequent State Bond Issuances into TPFA.

Change in Statute

- Consolidate the debt issuance functions of the following agencies into TPFA:
 - **Midwestern State University,**
 - **Stephen F. Austin State University,**
 - **Texas Southern University, and**
 - **Texas Lower Level Radioactive Waste Disposal Authority.**

This recommendation would require these state entities to have TPFA issue all bonds or commercial paper necessary to fund their legislatively authorized programs. These new TPFA client agencies would still be fully responsible for completion of the projects and

administration of those programs. The agency needing bond funds would still make all decisions regarding the project or program. TPFA would only be responsible for arranging the most cost effective means of bond financing and would not have any other authority over those entities or their projects. When a project is approved and ready to be financed, the entity would work with TPFA to arrange bond financing. In most cases, the bonds would be consolidated with other TPFA bond issues to achieve economies of scale. These universities and agency would no longer have to bid-out and contract with bond counsel, financial advisors or underwriters.

Recent attempts have been made to merge some of the remaining independent state universities into one of the existing state university systems. Under this recommendation, the universities listed above would not be consolidated with any state university system but would only be required to have their bonds issued by TPFA.

In addition, current statute requires Texas Lower Level Radioactive Waste Disposal Authority to obtain all rights associated with real estate that is part of a licensed disposal site. This recommendation would provide the Authority with such rights upon payment in full of any bonds issued by TPFA. Until payment in full was made, TPFA would hold title to land used by the Authority.

Fiscal Impact

Significant savings are anticipated from the consolidated issuance of bonds. The exact amount cannot be determined since the number and amount of legislatively authorized bond issues needed in the future is not known.

An example of estimated savings can be calculated by comparing TPFA issuance costs to the median issuance costs for those above-named entities on a hypothetical \$5 million competitively bid revenue bond issue. TPFA's issuance costs for such a bond issue would be about \$17,500 while the other entities' median issuance costs would be about \$88,500, resulting in savings of about \$71,000 on this one bond issue. However, if TPFA were to issue commercial paper and then issue long-term bonds when a more cost-effective amount of bonds could be pooled together, TPFA's issuance costs could be even less, resulting in even more issuance cost savings. In addition, these estimated savings do not include any savings that could result from reduced spread.

If TPFA needs an additional staff member for accounting purposes, the position would be paid from a portion of any revenue bond proceeds issued by TPFA. No impact on the General Revenue Fund would result.

2. Improve TPFA's Interaction with Client Agencies by Requiring an Early, Plain Language Orientation to the Agency's Bond Issuance Process.

Change in Statute

- **Require TPFA to develop an orientation to the bond issuance process for client agencies that includes:**
 - **plain language information explaining the bond issuance process, and**
 - **an orientation meeting held before the bond issuance process begins.**

- **Require TPFA client agencies, as part of the orientation process, to provide TPFA with detailed project information, legislative authorization, and a list of staff designated to work with TPFA on the project.**

Management Action

- **TPFA should provide a comprehensive, non-technical orientation on the bond issuance process, particularly for agencies without significant bond issuance experience. The orientation materials should include:**
 - **a basic time line explaining the steps in the bond issuance process from legislative authorization to the payment of debt service,**
 - **definitions of commonly used terms in the bond issuance process,**
 - **a description of the role of each participant in the bond issuance process including, but not limited to TPFA, the Bond Review Board, the Comptroller's Office, the Attorney General's Office, financial advisors, bond counsel, and bond rating companies.**

3. Continue the Texas Public Finance Authority .

Change in Statute

- **Continue the Texas Public Finance Authority for 12 Years.**

This recommendation will result in TPFA having a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the functions of the Texas Public Finance Authority using the existing organizational structure, the Authority's annual appropriation of about \$600,000 would continue to be required for the operation of the agency. However, since the money used to fund the Authority comes from revenue bond proceeds, this appropriation would have no effect on the General Revenue Fund.



Summary of Fiscal Impact of All Recommendations

The recommendation to consolidate the debt issuance functions of certain universities and one agency will provide significant savings to those institutions. Also, continuing the Authority will require its annual appropriation from revenue bond proceeds to continue.

Texas Public Finance Authority	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Modify	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Modify	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Apply	17. Require the agency to establish career ladders.
Apply	18. Require a system of merit pay based on documented employee performance.

Texas Public Finance Authority	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.





TEXAS RACING COMMISSION

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	Texas Racing Act Article 179e, Vernon's Texas Civil Statutes	<ul style="list-style-type: none"> ● licenses and regulates racetracks ● licenses and regulates racetrack personnel and racing participants ● regulates pari-mutuel wagering ● supervises incentive programs for Texas-bred race animals ● ensures health and safety of race animals
Commission Composition	8 members	
Agency Head	David Freeman Executive Secretary	
Appropriation	\$7,680,655 (FY 1996) (Includes contingency appropriation for new horse racetrack and pass-through funds for the Texas Bred Incentive Program)	
Employees (FY 1996)	76.5	
<u>Commission Members</u>		
Larry J. Christopher, Chairman (Crockett) John Sharp (ex officio, Comptroller) (Austin) James B. Francis, Jr. (ex officio, Chairman of DPS) (Dallas) Lukin T. Gilliland, Jr. (San Antonio)		James L. Schulze, DVM (Conroe) Anne Dunigan Wilson (Abilene) Deorsey E. McGruder, Jr., DVM (Dallas) Pat Pangburn (Irving)

RECOMMENDATIONS

1. Prescribe Public Membership on the Commission and Improve the Operating Structure.

Change in Statute

- **Modify the composition of the Commission to include four public members who have general knowledge of business or agribusiness, one member with expertise in horse racing, and one member with expertise in greyhound racing (retaining the two ex officio members).**

- **Remove existing requirements for the Commission to operate through separately acting sections representing horse and greyhound racing.**
- **Authorize the Commission to establish a section of the Commission to review or propose rules to the whole Commission but require a majority vote of the members of the Commission for any decision.**
- **Require the Commission to hold a meeting on a proposed rule prior to publication of the proposed rule in the *Texas Register*. The agency**

must post a notice of a meeting on a proposed rule at each racetrack facility. The notice must include an agenda and a summary of the proposed rule. Also, require a copy of a proposed rule published in the *Texas Register* to be posted at each racetrack facility.

- **Direct the Commission, in its review of the rules, to attempt to provide for uniform approaches to the regulation of horse and greyhound racing.**

Management Action

- **The Commission should work with a broad range of industry representatives during the development and review of rules and any other matters where outside expertise and early input would be helpful.**

This recommendation would change the Commission's membership to four public members, one member with expertise in horse racing, one member with expertise in greyhound racing, the Comptroller of Public Accounts, and the chair of the Texas Public Safety Commission.

This approach would reduce the number of commissioners required to have knowledge or experience particularly related to greyhound or horse racing and delete the requirement that two commissioners be veterinarians. Appointment of public members would not exclude persons with backgrounds in racing or veterinary practice from serving on the Commission, as long as they do not violate the usual conflict-of-interest provisions. The whole Commission would make all decisions related to the regulation of pari-mutuel racing in Texas.

Concern has been expressed that the regulation of pari-mutuel racing is a complex area requiring special expertise. Yet, other pari-mutuel racing states have found public membership to be an asset in a rapidly changing industry. A commissioner who owns horses or raises greyhounds is not necessarily the person best equipped to deal with interstate simulcasting arrangements or intricate racetrack financing schemes.

When special expertise in the racing industry is needed, the Commission can rely on its two industry representatives, its professional staff and can call upon the expertise available within the racing community. In addition, the eight veterinarians on the Commission's staff will be available to provide expert medical opinions on animal health and safety issues. These veterinarians work with race animals on a day-to-day basis.

This recommendation would provide more uniform policymaking by the Commission. Instead of adopting divergent rules for horse and greyhound racing, a unified Commission would provide consistent regulation for the racing industry in Texas as a whole. Under the recommended approach, current members would be allowed to serve out their terms. Based on the current membership of the Commission, the terms of one horse section member and one greyhound section member will expire at the same time, thereby avoiding an imbalance between horse and greyhound members during the transition.

Fiscal Impact

This recommendation would not have a fiscal impact to the state.

2. Focus Racing Commission Activities on Regulation of the Industry, not Promotion.

Change in Statute

- **Clarify that the Texas Racing Commission is not responsible for promoting the racing industry.**
- **Direct the Commerce Department to assume responsibility for the promotion of racing if the Legislature authorizes economic development funds for this purpose.**
- **Direct the Commission to consider the effect of Commission actions on the state's agricultural industry and horse and greyhound breeding and training industries.**

This recommendation would remove provisions in the Racing Act that can be interpreted to place the Texas Racing Commission in the position of both regulating and promoting the racing industry. If, at some time in the future, the Legislature determines that a portion of racing-related funds should be used for promoting the industry, the Commerce Department would become involved depending on the type of promotional activity desired.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state.



3. Improve TxRC's Racetrack Inspection and Enforcement Activities.

Change in Statute

- **Require the Commission to establish a standard method for conducting ongoing track compliance inspections including:**
 - issuing notices of violation,
 - requiring racetracks to submit a corrective action plan,
 - setting deadlines to correct violations,
 - timely reinspections of the facility; and
 - requiring enforcement action for failure to take corrective action within Commission time-frames;
- Authorize the agency to rescind race dates for violations of the Act or Commission rules.
- Require a racetrack licensee that does not comply with any portion of the compliance inspection program to appear before the Commission at a public meeting to consider the matter.

Management Action

- Establish a standard method for overseeing the construction of racetrack facilities that includes improved inspection scheduling, structured progress reports, improved documentation and Commission approval of all changes throughout the project.
- Increase efforts to employ a director of racing to supervise and coordinate the agency's inspection efforts.
- Establish a system that requires stewards and judges to assist in conducting inspections and report the results to the agency on a routine basis.
- Report on racetrack inspections on a regular basis at the Commission's formal meetings.

These recommendations would improve TxRC's

oversight and regulation of racetrack facilities by enhancing the agency's inspection program and providing additional enforcement authority. Compliance with Commission standards should occur more promptly because of a more integrated approach between staff and Commission members through set time-frames for track improvements.

The management recommendations direct the agency to ensure that personnel key to the regulation of racetrack operations are in place and that a system is established to provide for regular and routine inspection of racetracks. The results of the inspection should be made available to the Commission to alert them of any potential problems before they escalate.

Fiscal Impact

The Legislature appropriated additional funds for the 1996-1997 biennium to improve racetrack enforcement activities; consequently, no additional funds would be necessary to implement this recommendation.

4. Increase Texas Racing Commission Oversight of Programs Funded through Provisions of the Texas Racing Act.

Change in Statute

- **Require TxRC to improve oversight of organizations receiving racing funds as follows:**
 - require TxRC to establish performance measures and reporting requirements for the breed registries and any other organization, other than the Texas Commission on Alcohol and Drug Abuse, receiving racing funds;
 - require that annual independent audits, with performance reports, be sent to TxRC;
 - authorize TxRC to conduct a follow-up examination of an organization's records if necessary;
 - authorize TxRC to withhold funds or to require a track to withhold funds if problems are found with expenditure or reporting of funds or performance; and

- **require the Commission to adopt rules establishing criteria to recognize any organization that represents members of a segment of the racing industry in interactions between the organization and the Commission or a racetrack facility.**

This recommendation would help ensure that the Legislature and the public receive sufficient information to assess the effectiveness of the Texas Bred Incentive Program. This information will also help determine whether or not the program is meeting legislative objectives. Breed registries and other entities will be required to report financial and performance information to TxRC for evaluation. TxRC will have the authority to follow-up on the audits and take action if problems are found.

Fiscal Impact

Although TxRC staff would need to increase its review of financial and performance information submitted by approved breed registries and the state's officially recognized horseman's organization, this recommendation would not result in a fiscal impact to the state.

5. Improve the Integrity and Safety of Pari-Mutuel Racing by Making the Top Regulatory Officials at each Track Directly Responsible to the State.

Change in Statute

- **Require that the Texas Racing Commission employ all stewards and judges.**
- **Allow racetracks to comment on stewards and judges.**

This recommendation will remove any potential conflict of interest for racing stewards and judges. An impartial board of stewards and judges would strengthen the state's effort to ensure safe and fair pari-mutuel racing. All decisions to hire and fire stewards and judges would fall to TxRC, which would assume all day-to-day oversight of these racing officials' activities. TxRC should consult with tracks on individuals hired to help ensure that the agency hires qualified officials.

Fiscal Impact

This recommendation will not result in a net fiscal impact to the state. Costs of the recommended change will be covered by increased track official fees paid by the racetracks.

6. The Texas Racing Commission Should Recover Costs of Criminal History Reports.

Change in Statute

- **Require the Texas Racing Commission to collect licensing fees that cover the cost of conducting criminal history checks.**
- **Require the Commission to reimburse Department of Public Safety for the costs of criminal history reports.**
- **Clarify the authority of the Department of Public Safety (DPS) to request fingerprints of a person owning any interest in an application for a racetrack license.**
- **Clarify that fingerprints be forwarded to the Federal Bureau of Investigation by the Department of Public Safety for central collection to enhance use across state lines.**

This recommendation would allow TxRC to recover more of the costs associated with the state's regulation of the racing industry. This approach would make TxRC's licensing program more consistent with other state agencies that use criminal history reports and recover costs from license applicants. Although the Commission would be required to set new licensing fees that reflect the cost of crime record checks, the Commission would continue to base the license fees on the relative incomes or property interests of the various categories of licensees as currently required in statute.

Fiscal Impact

An estimated \$850,000 in recovered costs would be collected by TxRC, for the biennium, and paid directly to DPS for state and federal criminal history checks. This increase in revenue would be additional funds for DPS and not an increase to the Racing Commission budget. Recovering the costs of background checks could increase license fees by approximately \$39 for new applicants and \$24 for licensees at their five-year anniversary.



7. Continue the Texas Racing Commission for Eight Years to Oversee Pari-Mutuel Racing in Texas.

- Continue the Texas Racing Commission until September 1, 2005 and require all rules to be evaluated and either readopted or repealed by January 1, 2002.
- Change the Sunset date for the Equine Research Account Advisory Committee to match the Racing Commission's new Sunset date.

This recommendation will provide the Legislature with an assessment of TxRC and policies regarding pari-mutuel racing in eight years rather than the usual 12-year period for Sunset evaluations. At the present time, the industry has not developed to the extent originally expected. Limited information is available to evaluate many of the original expectations of pari-mutuel racing. A shorter Sunset review cycle will provide the industry additional time to get off the ground and for the agency to move completely into a regulatory and oversight mode of operation.

Requiring the Commission to review and readopt its rules is needed to ensure that the rules are workable with the rapidly changing racing industry. In addition, the Commission's rules may have created some problems for the industry that need to be addressed.

Management Action

- The Commission should consult with a broad cross-section of the racing industry during the evaluation and development of the rules.

As the racing industry moves into its next phase of development, the Commission must evaluate, correct, and refine its rules, which were developed during the track licensing and construction phase. These refinements should also include an evaluation of whether each rule is fully consistent with authority provided in the Racing Act. Obtaining industry input during the process allows for meaningful interaction and assistance in developing rules that are both effective and workable.

Fiscal Impact

If the Legislature continues the current functions of TxRC using the existing organizational structure, its annual appropriation of about \$2.7 million would continue to be required for operation of the agency. TxRC also receives annually about \$6 million of pass-through funds for the Texas Bred Incentive Program and

to pay track officials. The agency would continue to be self-supporting from a portion of wagers made at the tracks and from licensing fees. These revenues are deposited in the Texas Racing Commission Fund. If the Racing Commission were abolished leaving no entity to license racetracks to operate, the General Revenue Fund would experience a loss of about \$7 million per year from the General Revenue fund's share of pari-mutuel wagers.

8. Clarify Language on Criminal Offenses in Sec. 14.03 of the Texas Racing Act to Remove Ambiguity Identified by Local Prosecutors Enforcing the Law.

Change in Statute

- Consolidate all criminal offenses into one article, separating them from rule violations. These include unlawful influence on racing, bribery, corrupt influence, pari-mutuel racing without a license, and offenses involving minors.
- Add several new criminal offenses such as illegal access to a racing facility, hindering a lawful search, forging a pari-mutuel ticket, and impersonating a license holder.
- Revise language to conform the Racing Act with the Texas Penal Code in areas such as touting, making false statements, bribery, and corrupt influences.
- Clarify the authority of TxRC and DPS to conduct a search and seize contraband.

This recommendation addresses concerns raised by local prosecutors and the Department of Public Safety who indicate that the criminal provisions in the Texas Racing Act are vague, ambiguous and generally difficult to enforce. Legal counsel from TxRC, DPS, Texas Legislative Council and Sunset staff coordinated efforts regarding these statutory revisions in an effort to improve the prosecution of individuals violating the Act.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state.

9. Expand the Texas Racing Commission's Enforcement Powers to Improve its Ability to Respond Effectively to Emergency Situations at the Racetrack and to Racetrack Closures.

Management Action

- Staff from the Sunset Commission, Texas Legislative Council, and the Texas Racing Commission should work together to draft proposed enforcement language for the Sunset bill sponsors.

The proposed enforcement language may include a range of powers from summary suspension of a racetrack license to the authority to place a racetrack under conservatorship under specific circumstances.

Fiscal Impact

This recommendation would not result in a fiscal impact to the state.

10. Allow the Racing Commission to Treat Uncashed Wagering Vouchers in the Same Manner as Uncashed Pari-Mutuel Tickets.

Change in Statute

- Allow racetracks to use money held for unclaimed pari-mutuel vouchers for animal drug testing with any excess funds going to the Racing Commission.

Current law authorizes racetracks to use unclaimed ticket revenue for race animal testing. This recommendation would allow uncashed wagering vouchers, a recent innovation in pari-mutuel wagering, to be used in the exact same manner by the racetracks.

Fiscal Impact

This recommendation would have minimal fiscal impact to the state.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations will result in a positive fiscal impact to the state.

FY 1998-99	FY 1998-2002
<u>(2 years)</u>	<u>(5 years)</u>
\$850,000	\$2,125,000

Texas Racing Commission	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Modify	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Update	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Modify	10. Provide for notification and information to the public concerning agency activities.
Update	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Modify	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Apply	16. Require development of an equal employment opportunity policy.
Apply	17. Require the agency to establish career ladders.
Apply	18. Require a system of merit pay based on documented employee performance.

Texas Racing Commission	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Modify	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Apply	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Modify	6. Authorize agencies to use a full range of penalties.
Modify	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



COUNCIL ON SEX OFFENDER TREATMENT

<p><u>General Information</u></p> <p>Statutory Reference Article 4413(51) Vernon's Texas Civil Statutes</p> <p>Board Composition 3 members</p> <p>Agency Head Grace L. Davis Interim Executive Director</p> <p>Appropriation (FY 1996) \$100,997 (70 percent from General Revenue and 30 percent from appropriated receipts)</p> <p>Employees (FY 1996) 2</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● registers the use of the title, "sex offender treatment provider" to qualified applicants ● establishes minimum educational and training standards for maintaining registration ● establishes practice standards for maintaining registration ● evaluates treatment methods ● serves as clearinghouse for information about sex offender treatment services
<p><u>Board Members</u></p> <p>Collier M. Cole, Ph.D., Chair (Galveston) Walter J. Meyer, III, M.D. (Galveston) David L. Cory, LMSW-ACP (Abilene)</p>	

RECOMMENDATIONS

1. **Consolidate the Regulatory Functions of the Council on Sex Offender Treatment with the Texas Department of Health and Make Other Improvements in the State's Approach to the Regulation of Sex Offender Treatment Providers.**

Change in Statute

- **Continue the Council on Sex Offender Treatment, but consolidate its regulatory functions within the Texas Department of Health.**

This recommendation would continue the Council on Sex Offender Treatment with its existing authority to regulate sex offender treatment providers, but would consolidate the administration of this regulatory function within the Texas Department of Health (TDH). Under

this consolidation, the existing staff and resources of the Council, including its appropriation, would transfer to TDH, and the separate Sunset date for the Council would be removed. The Council would be reviewed as part of the regular Sunset review of TDH.

This change would allow the Council's staff to be solely responsible for programs related to sex offender treatment providers, including registering qualified providers and maintaining the provider registry, taking enforcement against registered or unregistered providers as necessary, providing continuing education programs for these providers, and serving as a clearinghouse for information and public education about sex offender treatment programs.

TDH would be able to provide the administrative functions, such as budgeting, purchasing, and business management, as it already does for the 14 licensing programs it currently administers. Enabling the Council

to take advantage of this administrative efficiency in performing tasks common to all state agencies would free its staff to better focus on sex offender treatment issues and thereby improve the state's regulation of these providers.

■ **Increase the size of the Council from three to six part-time members.**

This recommendation would provide a broader perspective in overseeing the Council and improve the Council's ability to operate without violating the state's Open Meetings Act.

■ **Change the composition of the Council to require that one-third of its members represent the general public.**

The recommendation would provide representation on the Council from the general public — not registered treatment providers. Currently, all three Council members must satisfy the qualifications for registration as a provider. Requiring public membership would help assure that the agency responds to broad public interests and not just those of the regulated community.

■ **Authorize the Council to appoint additional members to the Interagency Committee as it deems necessary.**

This recommendation would allow the Council to appoint additional members of the Interagency Committee. This change would not affect the membership of this Committee as it is currently specified in statute, but it would simply give the Council the authority to appoint additional members. This will help ensure that the Council receives the input it needs to formulate policies.

■ **Transfer the responsibility for evaluating the need for sex offender treatment from the Council to the Criminal Justice Policy Council.**

The Criminal Justice Policy Council would be given responsibility for evaluating the need for a state program for sex offender treatment, removing this responsibility from the Treatment Council. As an objective researcher of facts relating to the state's criminal justice system, the Policy Council is better positioned to provide an impartial analysis of this issue. Because the Policy Council already evaluates the effectiveness of other programs within the prison system, including TDCJ's sex offender treatment program, it can assume this responsibility under its existing research authority without adding a separate reporting requirement. This

recommendation would simply clarify that the Policy Council and not the Treatment Council is to provide this evaluation.

■ **Require the Council to recover its costs through fees and grants to reduce the agency's reliance on general revenue funding.**

Finally, the recommendation would require the Council to set fees and seek grants to recover the cost of regulating treatment providers. Generally, licensing agencies are able to pay their own way through fees on licensees. Requiring the Council to set fees at a level to cover total costs would reduce its reliance on general revenue.

Fiscal Impact

This recommendation would enable the Council to take advantage of administrative efficiency by consolidating the regulation of sex offender treatment providers in the Texas Department of Health. While this change would enable the staff to better focus on its regulatory responsibilities and allow other TDH staff to provide administrative support, no cost savings could be identified.

In addition, this recommendation would cause a gain to general revenue by requiring the Council to cover the cost of administering these regulations. The exact revenue gain would depend on actual fee levels established by the Council and actual grants received. Based on its fiscal year 1995 expenditures, the agency would need to generate an additional \$70,000 in fees and grants to cover its total costs.

The recommendation to increase the size of the Council from three to six part-time members would result in additional costs to pay for members' travel and expenses to Council meetings. Based on the eight meetings the Council held in fiscal year 1995, these costs are estimated at \$7,200 annually, but would be offset by the Council's higher fee collections.

**Summary of Fiscal Impact
of All Recommendations**

The Commission's recommendations will result in a positive impact to the state.

FY 1998-99 (2 years)	FY 1998-2002 (5 years)
\$140,000	\$350,000

Council on Sex Offender Treatment	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Apply	1. Require at least one-third public membership on state agency policymaking bodies.
Apply	2. Require specific provisions relating to conflicts of interest.
Apply	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Apply	5. Specify grounds for removal of a member of the policymaking body.
Apply	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Apply	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Apply	9. Provide for public testimony at meetings of the policymaking body.
Apply	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Apply	14. Require information to be maintained on complaints.
Apply	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Not Applicable	16. Require development of an equal employment opportunity policy.
Not Applicable	17. Require the agency to establish career ladders.
Not Applicable	18. Require a system of merit pay based on documented employee performance.

Council on Sex Offender Treatment	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Apply	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Apply	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Already in Statute	9. Require the policymaking body to adopt a system of continuing education.



TEXAS DEPARTMENT OF TRANSPORTATION

<u>General Information</u>		<u>Agency Duties</u>
Statutory Reference	Chapter 201, Transportation Code	<ul style="list-style-type: none"> ● plans, designs, oversees construction, and maintains a system of highways ● assists local governments in developing transportation systems ● plans and develops transportation systems incorporating roadways, mass transit, aviation, railroads, and water navigation ● prepares a statewide master plan and disburses funds for urban and rural public transportation projects ● registers motor vehicles and issues certificates of title ● regulates manufacturers and dealers of new motor vehicles through an independent Motor Vehicle Board composed of six Governor appointed members ● promotes travel and tourism and publishes the <i>Texas State Travel Guide</i> and <i>Texas Highways</i> ● administers state laws relating to highway beautification ● operates 25 district offices throughout the state
Commission Composition	3 members	
Agency Head	Bill Burnett, P.E., Executive Director	
Appropriation (FY 1996)	\$3,187,725,371	
Employees (FY 1996)	14,179	
<u>Commission Members</u>		
David M. Laney, Chair (Dallas) Anne S. Wynne (Austin) David Bernsen (Beaumont)		

RECOMMENDATIONS

1. Authorize the Department's Use of Infrastructure Banks to Take Full Advantage of Federal Highway Funding Flexibility.

Change in Statute

- Authorize TxDOT to use federal funds and any required state match, within constitutional limitations, to create a State Infrastructure Bank.
- Authorize TxDOT to use funds in the State Infrastructure Bank for loans, interest rate subsidies, or other constitutionally acceptable forms of credit enhancements to local, county, or approved private entities for the construction of

transportation infrastructure projects, including transit.

- Require that State Infrastructure Bank funds may be used only for projects with a demonstrated public benefit.
- Require that funds in the State Infrastructure Bank be maintained in the State Treasury for investment purposes.
- Require TxDOT to report to the Legislature by January 1, 2001 on the status and use of the State Infrastructure Bank.

These recommendations would significantly increase TxDOT's statutory authority to use flexible financing methods for state transportation projects.

Initial start-up funds for the State Infrastructure Bank (SIB) will be federal funds and non-federal matching funds. The non-federal match would be provided from state highway funds. Additionally, local and private sources of matching funds may be available based on the projects ultimately financed through the SIB. These recommendations do not authorize TxDOT to incur debt. Constitutional restrictions would still be applicable.

Separate accounts for the SIB, for highway, transit, or other transportation modes, would be created within the State Highway Fund so no diversion of highway funds for non-highway purposes would occur. Constitutional protection of highway funds would not change with this recommendation. Investment of funds in the SIB would be done through the State Treasury and restricted to low-risk, government-backed securities to minimize any risk of losing state highway funds through poor investment decisions. Additionally, all interest earned by the SIB would accrue to the SIB and its individual accounts. Funds management systems and procedures for the SIB would be established by TxDOT, and the administrative costs would be limited to two percent of the SIB corpus, as allowed under the NHS Act. Federal funds, such as Congestion Mitigation and Air Quality funds, attributable to air quality non-attainment urbanized areas over 200,000 and controlled by their Metropolitan Planning Organization, cannot be used for the SIB without permission.

The SIB would primarily provide financial assistance to highway toll and non-toll projects because the majority of transportation resources are dedicated for highway purposes. However, if other financial resources, other than the highway fund become available, TxDOT would be able to use the SIB for all transportation modes, including transit, rail, and waterway, as well as intermodal and intelligent transportation system projects.

The SIB would provide assistance at interest rates comparable to or below market rates, at the discretion of TxDOT and the Texas Transportation Commission. Rates would be determined by the specific needs and capabilities of project sponsors. The SIB would provide applicants with flexible repayment terms. The terms should be consistent with the NHS Act provisions requiring that repayments occur no later than five years after either project completion or when the facility is open to traffic. A repayment period could not exceed 30 years.

The State Constitution allows state highway funds to be loaned to TTA or any successor agency. Therefore,

regardless of legislative action on the possible consolidation of TTA and TxDOT, the Department's ability to make loans or other financial incentives available for toll projects would continue to exist.

TxDOT would be required to report to the 77th Legislature on the status of SIB-funded projects and on the use of the SIB. The report should specifically address:

- financial and operational status of assisted projects;
- financial condition of the SIB, including fund balances;
- cumulative value of investments made; and
- extent that SIB projects helped meet transportation needs in the state.

This report would provide the Legislature with a track record on the SIB on which to base a decision on its long-term future. If the Legislature determines that the benefits derived from the SIB are insufficient to warrant its continuation, all funds in the SIB shall be transferred to the State Highway Fund, including interest earned.

Fiscal Impact

These recommendations would have no direct fiscal impact on the State Highway Fund. The creation and maintenance of a SIB would be financed through existing resources appropriated to TxDOT. The majority of the start-up costs for the SIB would be borne through use of federal highway funds. If appropriated, TxDOT could deposit additional state funds, beyond any required match, into the bank.

Using funds from the State Highway Fund to match federal contributions to the SIB would reduce the dollar volume of projects that could be completed during the time that TxDOT builds the nucleus of funds needed to make the SIB operational. This may result in some projects that are ready for funding to be temporarily delayed.

A positive gain to the SIB through interest collected on loans can be expected. The gain from interest cannot be estimated without knowing the amounts loaned and at what interest rates. Additionally, gains would be realized through the investment of funds located in the SIB. These amounts also cannot be estimated at this time.

2. Improve Project Administration and Contractor Timeliness.

Change in Statute

- **Require TxDOT to develop a schedule for liquidated damages that accurately reflects the costs associated with project completion delays, including administrative and travel delay costs.**
- **Require TxDOT to review contractor bidding capacity to ensure that both quality and timeliness are delivered and meet Transportation Commission standards.**

This recommendation will require TxDOT to use existing contractor performance information collected by the Department to strengthen contract administration. The Department must implement improvements in how contract time is initially determined and the methods used to determine the amount of contract completed during different phases of construction. The Department would maintain the ability to provide for time extensions on projects where unavoidable delays, such as weather, occur.

The Department, through the Partnering program with its staff and contractors, would emphasize the importance of completing projects in accordance with project completion schedules. Partnering sessions should focus on establishing and clarifying the need for timely completion, along with outlining incentives for early completion. The sessions should also emphasize that a contractors' bidding capacity could be lowered due to poor timeliness performance.

Additionally, the Department will be required to undertake an effort to evaluate the current level of assessed liquidated damages in an effort to reflect the true costs of project completion delays and to improve project timeliness. Specifically, the Department should improve the accuracy of determining the daily cost for contract administration when contractors overrun their allotted time and should include in this assessment the costs to the traveling public associated with project delays.

Fiscal Impact

These recommendations should improve the timeliness of project completion for those contractors conducting business with the Department. As a result, a positive fiscal impact should occur from more efficient scheduling and use of TxDOT resources. Including all

administrative and travel delay costs to liquidated damages will result in additional funds collected by the Department, resulting in an additional fiscal gain. Lastly, communities, particularly local businesses, should benefit from reduced traffic delays and congestion.

3. Remove Obstacles to Automating the Department's Contract Bidding System.

Change in Statute

- **Authorize the Texas Department of Transportation to establish an electronic bidding system for highway construction and maintenance contracts.**
- **Allow TxDOT to receive bids from qualified vendors electronically, including submission of contracts, signatures, and verification of guaranty checks by a financial institution.**
- **Remove the requirement that all bids must be publicly opened, but require that all bids be publicly posted.**
- **Authorize TxDOT to recover the cost of manually processing bid proposals once an electronic bidding system has been implemented.**

This recommendation could significantly change the way TxDOT conducts its contract bidding business. TxDOT would not be required to change its current system, but would no longer be mandated by statute to continue its labor-intensive, manual bid receipt, tabulation, and public opening procedures. If it chooses, TxDOT would have the flexibility to redesign its bidding and contract letting process to meet the needs of the contracting community.

The implementation of an electronic bidding system would most likely occur in stages, moving from submission of certain bids on disk to eventually submitting all bids electronically. The benefits of an electronic bidding system will increase as it moves closer to full electronic submission, reducing paperwork and personnel required to conduct the task. This recommendation would retain the Department's ability to prosecute for bidding crimes and address the legality of a contract.

Implementing an electronic bidding system could facilitate the use of performance-based contracting as recommended in this report. Any system implemented

should be accessible to show contractors on-time performance for prequalification purposes. A contractor failing to meet the Transportation Commission's established standards would have the bid rejected because it was submitted by an unqualified bidder.

This recommendation would not require a contractor to submit bids electronically. Contractors wanting to bid on TxDOT projects would still be allowed to submit paper bid proposals to the Department.

Removing statutory impediments to electronic commerce will bring the Department in line with statewide efforts to take advantage of computer technology to improve government processes. These recommendations will also allow TxDOT to take full advantage of its efforts to retool procedures related to contracting.

Allowing TxDOT to recover the costs associated with manually processing bids, once an electronic bidding system is implemented, would encourage contractors to use the system and emphasize that the Department will conduct business in the most cost-effective manner possible. This recommendation only authorizes TxDOT to recover the cost, it does not mandate that a fee be charged.

Fiscal Impact

This recommendation will have a positive impact on the State Highway Fund. While efficiencies in the bidding process are likely, the fiscal impact cannot be estimated. Establishing an electronic bidding process will reduce the use of staff time dedicated to manual receipt and processing of contract bids. This effort could be redirected to other work of the Department which could affect TxDOT's need to hire additional staff in the future. Any costs associated with automating the bid process should be offset by anticipated savings.

In addition, TxDOT could generate revenue for the highway fund from any fees established for manual bidding.

4. Authorize the Council on Competitive Government to Help TxDOT Balance In-House and Contracted Engineering Services.

Change in Statute

- Authorize the Council to help TxDOT achieve an appropriate balance between in-house and

outside engineering services if it finds that the costs of providing these services are equivalent.

This recommendation would authorize the Council on Competitive Government to work with TxDOT to help the agency achieve the legislatively-mandated balance between in-house and outside engineers, if costs of providing these services are equivalent and the quality would not be diminished. The Council would not be able to compel the Department to take any action to achieve such a balance, but would help TxDOT see that it achieves this balance. In this way, the Department receives needed input from an objective third party in making decisions that significantly affect major activities relating to roadway design and construction oversight.

By maintaining the statutory directive to achieve a balance between in-house and outside engineering services, TxDOT will continue to provide many of these important services in-house and will not be required to completely privatize these activities. In addition, keeping the provision that the costs of using outside engineers be equivalent with in-house engineers assures these services will continue to be selected on the basis of quality and not be subject to low bid.

Fiscal Impact

This recommendation would have no fiscal impact. Because the use of contracted engineers would continue to be on the basis of cost equivalency, no fiscal impact would result from any action to achieve a balance in engineering services. Any costs associated with the Council helping TxDOT achieve a balance would be paid using the existing budget of the Council and its member agencies.

5. Require TxDOT and the Comptroller to Study Moving the Point-of-Accountability for Collecting Motor Fuels Taxes.

Change in Statute

- The Texas Department of Transportation and the State Comptroller should jointly evaluate the costs and benefits of moving the point of collection for state motor fuels taxes to the terminal level. The study should address:
 - increases in revenues from moving the point of collection;

- **costs, including administrative costs, associated with moving the point of collection;**
- **impact on tax-exempt status for agricultural and other non-highway uses; and**
- **the impact on industries and businesses affected by changing the point of collection.**

- **Require TxDOT to report to the Legislature no later than January 1, 1998 on the results of the study.**

This recommendation would encourage all interested entities in motor fuels taxes to assess the benefits and costs of changing the current state policy for collecting state motor fuels taxes. The study would build off past enforcement experiences of the Comptroller and approaches used by other states. TxDOT would lead the study effort and report the results in time for consideration by the 76th Legislature.

Fiscal Impact

This recommendation would have no fiscal impact. The agencies involved in the study would use existing staff resources as necessary. Any cost associated with conducting the study would come from existing appropriations.

6. Include Transportation Needs of Health and Human Service Clients in TxDOT's Public Transportation Planning Efforts.

Change in Statute

- **Include the transportation needs of the clients of health and human service agencies in TxDOT's public transportation planning and funding activities.**

This recommendation would require TxDOT to incorporate a broader definition of public transportation in all of its efforts in this area. TxDOT should attempt to expand its system to meet the transportation needs of clients of health and human service agencies. TxDOT should work with the Office of Client Transportation Services (OCTS) within the Health and Human Services Commission and the Agency Transportation Coordinating Council, comprised of nine health and human service agencies and TxDOT, to define these needs. Health and human service agencies have highlighted the need for this expansion by declaring their

intention to use public transportation systems as the foundation of their transportation services. Efforts to take this intent and put it into practice will allow health and human service agencies to focus their efforts on serving clients for whom public transportation is not a viable option.

Management Action

- **TxDOT should work jointly with OCTS to:**
 - **ensure that transit providers funded by TxDOT provide services to all citizens, including clients of health and human service agencies;**
 - **integrate the transit districts created in HB 2588 into TxDOT and OCTS client's plans and policies;**
 - **identify statutory barriers and funding requirements that prevent complete use of health and human service and public transportation resources;**
 - **develop a plan to fully coordinate or consolidate the funding of the different health and human service agencies' transportation budgets;**
 - **study whether the eventual consolidations of OCTS with TxDOT would provide for the most effective delivery of services, and**
 - **report to the Legislature by September 1, 1998 on changes needed to most effectively provide services to health and human service agencies' clients.**

These management recommendations are intended to improve communication between TxDOT and OCTS by providing specific items that must be discussed and resolved. TxDOT and OCTS would be required to develop a strategy to integrate client transportation services and public transportation. The first step in doing so is to identify legal and funding impediments to consolidating the state's approach to serving all public transportation needs.

The use of regional districts, as provided through HB 2588, offer an opportunity to define service delivery areas and assess public and client transportation needs within the area. TxDOT and OCTS should develop a strategy to use this mechanism. These recommendations could provide the foundation for a comprehensive regional approach to meeting transportation needs.

TxDOT's public transportation function and OCTS may eventually need to be consolidated to be fully effective. The required study would examine whether this change is needed and would identify the changes required at TxDOT to effectively accommodate the assumption of OCTS responsibilities, if the study concludes that this is the best option. TxDOT and OCTS should report their findings as part of OCTS' biennial report to the Legislature.

Fiscal Impact

No fiscal impact would be associated with this recommendation. Both TxDOT and OCTS could incorporate the recommended actions in the course of their usual responsibilities.

7. Outsource TxDOT Vehicle Maintenance if Cost Effective.

Change in Statute

- **Require TxDOT to conduct a two-year pilot project to determine if outsourcing all of TxDOT's vehicle maintenance is cost effective.**
- **Require all savings as a result of the pilot project, or future implementation on a Department-wide basis, accrue to the State Infrastructure Bank.**

This recommendation would provide for an analysis of the costs of providing fleet maintenance in-house compared with contracting for this activity. TxDOT would be required to outsource fleet maintenance in at least three districts of various population size and geography and compare information regarding costs and quality with comparable districts that would continue to provide these services in-house. In this way, the Department would be able to determine if contracting for this service is more cost effective than providing it in-house.

The pilot projects should outsource all aspects of fleet maintenance, including parts management, preventive maintenance and inspections, unscheduled routine maintenance, mobile maintenance and dispatch services, warranty work, and fuels management. The Department's fleet maintenance contractor should be fully bonded, insured, and licensed.

Vehicle maintenance is part of the capital budget and savings would not have to be directed to highway construction or repair. Any savings resulting from

outsourcing fleet maintenance would accrue to the State Infrastructure Bank, as recommended in Issue 1. Directing the savings in this manner would allow the Department to support under-funded programs, such as rail, public transportation, aviation, and port facilities.

Fiscal Impact

The fiscal impact of this recommendation cannot be determined at this time. However, depending upon the performance of the contractor, savings may result from outsourcing fleet maintenance. These savings would accrue to the Department's State Infrastructure Bank.

8. Continue the Texas Department of Transportation.

Change in Statute

- **Continue the Texas Department of Transportation for 12 years.**

This recommendation would continue the Department for the usual 12 years with a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of TxDOT, using the existing organizational structure, the Department's annual appropriation of approximately \$3.2 billion in fiscal year 1996 would continue to be required for the operation of the agency.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations will not result in a direct fiscal impact to the state. However, while any savings or revenue gains cannot be estimated, the recommendations will improve the Department's ability to better meet state transportation needs with existing resources. In addition, the recommendation to study the impact of moving the point of collection of state motor fuels taxes is expected to identify significant revenue enhancements.



Texas Department of Transportation	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Update/Modify	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Already in Statute	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Update	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Update	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Already in Statute	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.

Salvage Vehicle Dealers Licenses	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Update	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Apply/Modify	6. Authorize agencies to use a full range of penalties.
Update	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



Motor Carriers Licenses	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Already in Statute	5. Authorize the staggered renewal of licenses.
Update	6. Authorize agencies to use a full range of penalties.
Update	7. Specify disciplinary hearing requirements.
Apply/Modify	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.

Vehicle Storage Facilities Licenses	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Update	6. Authorize agencies to use a full range of penalties.
Update	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



Outdoor Advertising Licenses	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Update	6. Authorize agencies to use a full range of penalties.
Apply	7. Specify disciplinary hearing requirements.
Apply	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.

Motor Vehicle Board/Division	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Already in Statute	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Already in Statute	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Already in Statute	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Update	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Already in Statute	9. Provide for public testimony at meetings of the policymaking body.
Not Applicable	10. Provide for notification and information to the public concerning agency activities.
Update	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Not Applicable	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Already in Statute	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.



Motor Vehicle Commission Code Licenses	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Already in Statute	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.

Transportation Code Licenses (Motor Vehicles)	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Apply	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Apply	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.



TEXAS TURNPIKE AUTHORITY

<p><u>General Information</u></p> <p>Statutory Reference Chapter 361 Transportation Code</p> <p>Board Composition 12 members</p> <p>Agency Head James W. Griffin Executive Director</p> <p>Appropriation The Authority receives no appropriation from the Legislature. Project construction is paid from bond proceeds. Costs of maintaining and operating facilities are paid entirely from tolls. The Authority's calendar year 1995 budget is \$14,334,020.</p> <p>Employees (FY 1996) 235</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● plans, finances, builds, operates, and maintains a system of toll roads, bridges, and tunnels in partnership with TxDOT ● operates the North Dallas Tollway and the Mountain Creek Lake Bridge (Dallas) and has sold bonds to finance the construction of a tunnel under the Addison Airport and for the George Bush Turnpike 		
<p><u>Board Members</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; vertical-align: top;"> <p>Jere W. Thompson, Jr., Chair (Dallas)</p> <p>Luther G. Jones, Jr., Vice Chair (Corpus Christi)</p> <p>David M. Laney (ex officio, TxDOT) (Dallas)</p> <p>Anne Wynne (ex officio, TxDOT) (Austin)</p> <p>David Bernsen (ex officio, TxDOT) (Beaumont)</p> <p>Raul A. Bersteiro, Jr. (Brownsville)</p> </td> <td style="width: 50%; border: none; vertical-align: top;"> <p>Thomas Cardenas, Jr. (El Paso)</p> <p>Don Dillard (Dallas)</p> <p>Nathelyne A. Kennedy (Sugarland)</p> <p>Donna Parker (Fort Worth)</p> <p>Lorraine Perryman (Odessa)</p> <p>Leahray Wroten (Fairview)</p> </td> </tr> </table>		<p>Jere W. Thompson, Jr., Chair (Dallas)</p> <p>Luther G. Jones, Jr., Vice Chair (Corpus Christi)</p> <p>David M. Laney (ex officio, TxDOT) (Dallas)</p> <p>Anne Wynne (ex officio, TxDOT) (Austin)</p> <p>David Bernsen (ex officio, TxDOT) (Beaumont)</p> <p>Raul A. Bersteiro, Jr. (Brownsville)</p>	<p>Thomas Cardenas, Jr. (El Paso)</p> <p>Don Dillard (Dallas)</p> <p>Nathelyne A. Kennedy (Sugarland)</p> <p>Donna Parker (Fort Worth)</p> <p>Lorraine Perryman (Odessa)</p> <p>Leahray Wroten (Fairview)</p>
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RECOMMENDATION

- 1. Consolidate the Functions of the Texas Turnpike Authority within the Texas Department of Transportation and Authorize the Creation of a Regional Turnpike Authority.**

Change in Statute

- **Establish a successor agency to the Texas Turnpike Authority as an independent division of the Texas Department of Transportation.**

- **Authorize a regional turnpike authority formed by Collin, Dallas, Denton, and Tarrant counties.**

This recommendation would consolidate the functions of the Texas Turnpike Authority (TTA) within the Texas Department of Transportation (TxDOT) effective September 1, 1997. Through this consolidation, TxDOT would retain the authority relating to building and operating toll facilities that currently resides in TTA. The specifics of any consolidation would need to be worked out between TTA and TxDOT regarding such issues as how the consolidated highway/turnpike

function would be staff and organized. TxDOT's new toll staff would need to be separated from the other TxDOT staff for accounting purposes. These functions would continue to be funded by bond proceeds and toll revenue and would have no impact on the State Highway Fund.

The regional turnpike authority would be comprised of Collin, Dallas, Denton, and Tarrant counties. The details concerning governance, project financing, right-of-way acquisition, and other specifics are to be legislatively determined.

Fiscal Impact

Because the Texas Turnpike Authority is financed through revenue bond proceeds and toll revenues and does not receive a state appropriation, the consolidation into TxDOT would not have an additional fiscal impact to the state. The costs associated with TxDOT's administering this new toll function would continue to be paid from the operations of toll facilities.

Additionally, the creation of a regional turnpike authority would not have a fiscal impact to the state. Any costs associated with toll projects in the four counties would be paid and supported through local bond initiatives.



TEXAS YOUTH COMMISSION

<p><u>General Information</u></p> <p>Statutory Reference Human Resources Code, Chapter 61</p> <p>Board Composition 6 members</p> <p>Agency Head Steve Robinson</p> <p>Appropriation (FY 1996) \$167,494,560 (includes \$55.5 million in general obligation bonds)</p> <p>Employees (FY 1996) 2,372.5 FTEs</p>	<p><u>Agency Duties</u></p> <ul style="list-style-type: none"> ● protects the public from delinquent and criminal youth ● operates both institutional and community-based residential programs for committed youth ● contracts with private sector providers for treatment in residential and community-base programs ● provides specialized treatment programs for youth with capital offense history, sex offense history, chemical abuse dependence, emotional disturbance, or gang membership ● supports state and local efforts in juvenile delinquency prevention
<p><u>Board Members</u></p> <p>Leonard Lawrence, M.D., Chairman (San Antonio) Edna Tamayo, Vice-Chair (Harlingen) Pedro C. Alfaro (Baytown) Pete Harrell (Austin) John W. Odam (Houston) Lisa Saemann Teschner (Dallas)</p>	

RECOMMENDATIONS

1. Continue the Texas Youth Commission.

Change in Statute

- Continue the Texas Youth Commission for 12 years.

This recommendation would result in the Texas Youth Commission having a new Sunset date of September 1, 2009.

Fiscal Impact

If the Legislature continues the current functions of TYC using the existing organizational structure, the fiscal year 1996 appropriation for the agency, approximately \$167 million would continue to be required.

2. Pilot an Approach that Targets Funding for the Juvenile Justice System to Better Use Existing Resources.

Change in Statute

- TJPC and TYC should jointly develop pilot projects where counties, on a voluntary basis, would receive a pool of state funds to be used with local funds to provide a full array of services to juveniles delinquents. The pilot program would contain the following features:

- state funds would be merged with the pilot county's current basic probation funding, including funds received from TJPC;
- participating counties in the pilot would be responsible for all services to delinquent juveniles, including paying for commitments to TYC;

- **establish a contingency fund to cover the expenses of special exception commitments to TYC;**
- **require participating counties to maintain their current funding commitment to the juvenile justice system;**
- **require TJPC, in conjunction with TYC, to establish pilot program rules and standards;**
- **counties in the pilot must represent different geographic regions and population;**
- **participating counties must be in compliance with all applicable TJPC standards; and**
- **require participating counties to report on the use and success of the programs funded through the pilot project.**

The existing Joint Board Committee, comprised of TJPC and TYC Commission members, would make a recommendation to the Legislature on funding for the pilot. Pilot projects would be funded by a reduction in direct appropriations to TYC. The percentage of TYC appropriations used for the pilot project would be determined through the appropriations process. TYC would require a base level of funding to maintain the continuation of services and be given the authority to expend funds collected from the counties for commitments. Additionally, a reserve account would be established, accessible by participating counties, to pay for committed youth if, due to extraordinary circumstances, their allocation under the pilot has been expended. TJPC would adopt rules regarding access to the reserve account.

The pilot projects would be voluntary. Determination of eligibility would be based on the soundness of the programs proposed to be funded and compliance with all applicable standards. Participating counties would be required to document the use of the funds and provide a summary of accomplishments and performance. TJPC and TYC would jointly report on the results of the pilot project to the Legislature by January 2001, including recommendations regarding expansion of the pilot.

Participating counties would use the pooled funds to purchase alternative programs to incarceration, such as electronic monitoring, intensive supervision, or specialized treatment, or they could place youth with

TYC. Certain juvenile offenders, specifically some sentenced offenders, would be committed to TYC at no cost to the county. The progressive sanctions model could serve as a guideline to determine which offenders would be committed at no cost.

Providing proper incentives to align resources with needs will allow the state to achieve more with its current resource commitment to the juvenile justice system. The recent effort to expand capacity within the system has resulted in safer streets and communities. However, this may be short-lived if state efforts do not extend to prevention and treatment. By pooling resources within the system, and allowing greater flexibility at the local level, the state will increase incentives to treat delinquent youth earlier through community services.

If Texas shifted an increasing portion of juvenile justice funding toward community services and programs, the level of services provided directly by the state through TYC would likely fall. As a starting point, counties would be able to provide services to juvenile offenders who were formerly being committed to TYC due to a lack of community services or funds. Under this approach, funds would be made available to create or fund such services. In the long term, increased availability and use of intervention and prevention services would reduce the number of youth committing crimes and being sent to TYC, thus reducing the need for future bed capacity by TYC.

Fiscal Impact

The recommendation for a pilot project would require no additional funds and have no direct fiscal impact on the General Revenue Fund. The recommendation only re-allocates appropriations for the juvenile justice system to focus on probation services. Statewide implementation may require additional state funds.

Potential exists for the saving of state funds if early intervention and prevention results in lower levels of juvenile crime. However, staff did not identify short-term savings or costs. Also, the long-term savings in terms of decreased future bed capacity could not be estimated for this report.

3. Ensure TYC Continues to Develop and Maintain Sound Contracting Practices.

Change in Statute

- **Specify that TYC shall include the following standards in each contract for client services:**
 - **clearly defined goals, outputs, and measurable outcomes that directly relate to program objectives;**
 - **clearly defined sanctions or penalties for noncompliance with contract terms and conditions; and**
 - **clearly specified accounting, reporting, and auditing requirements applicable to funds received under contract.**
- **Require TYC to include the following in contract monitoring:**
 - **a risk assessment methodology to monitor compliance with financial and performance requirements; and**
 - **obtain and evaluate program cost information to ensure all costs, including administrative costs, are reasonable and necessary to achieve program objectives.**

These recommendations will ensure that TYC maintains and continues to develop sound contract procedures. These recommendations would also ensure a performance-based contracting system for TYC that will evaluate private contractors, and subcontractors on performance. The current Appropriations Act contains a general rider relating to contracting requirements for all health and human services agencies that includes provisions similar to these. This recommendation would clearly state legislative intent in TYC's enabling statute. TYC would be specifically required to ensure processes are in place to effectively contract for client services and hold contractors accountable for the services they deliver. The most significant impact will be ensuring the provision of quality services in the juvenile justice system.

Management Action

- **TYC should implement pilot projects that set primary performance goals for each contractor and provide financial incentives for meeting and exceeding goals.**

In the pilots, TYC should set goals for each contractor and pay contractors based on how well they achieve performance goals. Contractors should be able to directly affect their measures, but the measures must be closely linked to the mission of TYC.

TYC would require contractors to submit quarterly and annual reports that display the progress of the contractor toward the primary performance goals and numerous other factors that relate to effective service. In addition to the primary performance measures, TYC can learn from other data. This additional information should help TYC write more effective contracts in the future.

For example, TYC could negotiate a contract with a residential care provider that agreed to pay the provider depending on how well the contractor reduced recidivism rates of juveniles under its care. TYC could set a performance goal in the contract that juveniles under the care of the contractor have an annual recidivism rate 10 percent lower than the county rate for the previous year. The contract would specify that the contractor would be paid 75 percent of the agreed price at the beginning of the process and the other 25 percent only if the contractor meets the performance goal at the end of the year. Again, this concept should be tried by TYC on a pilot basis to see whether it could work statewide.

Fiscal Impact

The recommendation to improve the contracting process will result in increased efficiency and effectiveness of contracted services. However, savings cannot be determined as the number, value, and savings associated with each type of contract cannot be estimated. Any savings achieved through implementation of these recommendations would be reallocated within the agency for services.

4. Maximize the Use of Medicaid to Reduce Health Care Costs for Youth in the Juvenile Justice System.

Change in Statute

- **Require TYC to maximize the use of Medicaid funding for health care costs of youth in the juvenile justice system.**

Significant opportunities exist for the state to use federal Medicaid funds to provide health care of many offenders in the juvenile justice system. Every Medicaid dollar accessed frees funds to address the juvenile crime problem. TYC should continue to work with the Health and Human Services Commission, the Department of Human Services, the Department of Protective and Regulatory Services, and the Department of Mental Health and Mental Retardation to identify areas where Medicaid could be used cost effectively for youth in the juvenile justice system, and to develop programs to effectively access Medicaid funds. For example, since TYC must be fully prepared to access the proposed new eligibility determination system once it is available, efforts should be underway to ensure that the new system integrates the needs of TYC.

Fiscal Impact

Increasing Medicaid funding for youth in the juvenile justice system should result in additional federal funds available to juvenile probation departments and the state. The amount of federal funds cannot be determined as the number of juvenile offenders potentially eligible for Medicaid is unknown. However, considering the extremely limited use of Medicaid within the juvenile justice system, significant savings would be expected. As with all Medicaid recipients, the state must provide its share of the match. TYC should work with the Department of Health and the Health and Human Services Commission to determine which agencies will be responsible for the state match.

Summary of Fiscal Impact of All Recommendations

The Commission's recommendations could result in a positive fiscal impact to the state through improved contract administration and additional federal funds. However, this impact cannot be estimated.



Texas Youth Commission	
Recommendations	Across-the-Board Provisions
	A. GENERAL
Already in Statute	1. Require at least one-third public membership on state agency policymaking bodies.
Update	2. Require specific provisions relating to conflicts of interest.
Update	3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Apply	4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.
Apply	7. Require training for members of policymaking bodies.
Update	8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.
Update	9. Provide for public testimony at meetings of the policymaking body.
Already in Statute	10. Provide for notification and information to the public concerning agency activities.
Apply/Modify	11. Require the agency to comply with the state's open meetings law and administrative procedures law.
Apply	12. Require development of an accessibility plan and compliance with state and federal accessibility laws.
Apply	13. Require that all agency funds be placed in the treasury to ensure legislative review of agency expenditures through the appropriations process.
Update	14. Require information to be maintained on complaints.
Update	15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.
Update	16. Require development of an equal employment opportunity policy.
Update	17. Require the agency to establish career ladders.
Update	18. Require a system of merit pay based on documented employee performance.

Texas Youth Commission	
Recommendations	Across-the-Board Provisions
	B. LICENSING
Not Applicable	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
Not Applicable	2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.
Not Applicable	3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.
Not Applicable	4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.
Not Applicable	5. Authorize the staggered renewal of licenses.
Not Applicable	6. Authorize agencies to use a full range of penalties.
Not Applicable	7. Specify disciplinary hearing requirements.
Not Applicable	8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.
Not Applicable	9. Require the policymaking body to adopt a system of continuing education.

**Status of Implementation by
Agencies Reviewed in 1995**

SUMMARY

The Sunset Advisory Commission is charged by the Sunset Act with reviewing the way each agency implements the provisions of its Sunset bill after it goes through the Sunset review process. The Sunset Commission presented the results of its reviews of 18 state agencies to the 74th Legislature in January 1995. During the legislative session, Sunset bills containing these recommendations were debated and all were passed and signed by the Governor.

This report section looks at the progress agencies have made to implement the provisions of Sunset bills passed by the Legislature last session, which included more than 270 provisions requiring action by these agencies. To help make this determination, a status report was requested from each agency describing its implementation efforts. These reports and accompanying documentation were used as the basis for the following accounts of implementation status.

This report section does not include information on five of the agencies reviewed during the previous review cycle. Two of the agencies, the Texas Racing Commission and the State Preservation Board, were continued for only two years by the Legislature and are currently under Sunset review. The Guadalupe Blanco River Authority was simply removed from Sunset review and had no other changes in its legislation. The Public Utility Commission and the Office of Public Utility Counsel are also not included. The bills that continued these agencies contained major changes not attributable to continuation. In addition, these agencies have been subject to review during the interim by committees of the Senate and the House.

The review found that, overall, the affected agencies have done a good job at implementing legislative changes. The provisions in most of the bills have been fully or partially implemented by the agencies. The following lists those agencies that have implemented all the required provisions in their respective bills and describes, by agency, the provisions that have not been implemented or those that are only partially in place.

**AGENCIES THAT HAVE IMPLEMENTED
ALL REQUIRED PROVISIONS**

The following chart shows those agencies that have acted on all the provisions in their respective Sunset bills that required action to be implemented.

Agency	Bill Number	Actions Required
Texas Historical Commission/Antiquities Committee	S.B. 365	33
Equine Research Account Advisory Committee	S.B. 368	12
Office of State-Federal Relations	H.B. 1399	16
Teacher Retirement System of Texas	S.B. 9	17
Research and Oversight Council on Workers' Compensation	H.B. 1091	16
Texas Workers' Compensation Commission	H.B. 1089	36



**TEXAS DEPARTMENT OF AGRICULTURE
S.B. 372**

S.B. 372, as adopted by the 74th Legislature, continued the Texas Department of Agriculture (TDA). The legislation included a total of 60 changes requiring action. The actions affected the Department, along with the Texas Agriculture Finance Authority, the State Seed and Plant Board, and the Produce Recovery Board.

The following chart summarizes the provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
Authorizes the Department to adopt a staggered license renewal system. (ATB) (Page 4, Line 20 thru Page 5, Line 2)	The Department is in the process of implementing this change. Pesticide registrations are planned to be fully staggered as of January 1, 1997.
Requires the Department to collect and maintain information about all complaints filed with the Department. Requires the Department to maintain files on written complaints that the Department has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until dispositions. (ATB) (Page 5, Line 18 thru Page 6, Line 5)	The Department stated that an integrated system is being developed to improve responsiveness.
Requires TDA to consolidate multiple licenses and negotiate interagency contracts to conduct inspections of weighing and measuring devices. (Page 104, Line 21 thru Page 105, Line 20)	The Department is in the final stages of upgrading its licensing system to include all licensing programs. However, the Department has not developed a system to handle multiple licenses and doing so will require additional modifications. TDA is consulting with the Department of Information Resources to determine cost and computer system priorities. Although a coordinated approach for inspecting some weighing and measuring devices has been developed, additional effort may be required to achieve full compliance with provisions in S.B. 372.



TEXAS ANIMAL HEALTH COMMISSION H.B. 2245

H.B. 2245, as finally passed, continued the Texas Animal Health Commission. The legislation included 12 changes requiring action by the agency.

The review found that the Commission had implemented most of the statutory provisions. The following summarizes those changes that have not been fully implemented and the status of each.

Bill Provision	Implementation Status
Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Commission. (ATB) (Page 5, Line 11)	Policies specifying this separation of responsibilities have been proposed but not adopted.
Requires the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting. (ATB) (Page 5, Line 18)	Career ladders have been developed for animal health inspectors and office support staff, but not for central office personnel.
Requires the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB) (Page 6, Line 6)	TAHC has not developed an equal employment policy, but has plans to do so during FY 1997.
Requires the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs. (ATB) (Page 9, Line 7)	Policies regarding reasonable access for non-English speaking persons have been proposed but not adopted.
Require the Texas Animal Health Commission to consult with the Council on Competitive Government to privatize those services it provides that are available in the private sector, particularly laboratory services. (Page 9, Line 13)	TAHC has just begun its work with the Council on Competitive Government regarding the privatization of laboratory services.



**TEXAS COMMISSION ON THE ARTS
S.B. 360**

S.B. 360, as adopted by the 74th Legislature, continued the Texas Commission on the Arts (TCA). The legislation included a total of 14 changes requiring actions.

The following chart summarizes the provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
<p>Requires TCA to negotiate Memoranda of (MOU) with the Texas Education Agency; Music, Film, Television, and Multimedia Office; Texas Department of Commerce; Texas Parks and Wildlife Department; and Texas Department of Transportation. (Page 13, Line 3)</p>	<p>TCA has established a Memorandum of Understanding (MOU) with the Texas Department of Commerce and is working with the Texas Education Agency to establish parameters for an MOU. Memoranda of Understanding have not been developed with the Music, Film, Television, and Multimedia Office, the Texas Parks and Wildlife Department, or the Texas Department of Transportation. However, when a current MOU regarding state tourism efforts which includes the Texas Parks and Wildlife Department, the Texas Department of Transportation, and the Texas Department of Commerce expires in 1999, plans include the addition of TCA as well as the Historical Commission and the Music, Film, Television, and Multimedia Office to form a larger MOU.</p>
<p>Modifies the existing process for planning the construction of a new state building. TCA is required to work with the General Services Commission to establish a voluntary public hearing procedure to evaluate the costs and benefits of dedicating funds for art for the building. The provision requires any agency that proposes a new building to determine early in the planning whether to dedicate funds for art for the building and clarifies that agencies may consult with TCA in this planning. TCA and GSC are required to formalize the guidelines of this process through a Memorandum of Understanding. (Page 14, Line 8)</p>	<p>Neither the voluntary hearing procedure nor the Memorandum of Understanding have been developed or adopted by TCA and GSC.</p>



TEXAS FOOD AND FIBERS COMMISSION S.B. 371

S.B. 371, as adopted by the 74th Legislature, continued the Texas Food and Fibers Commission (TFFC) but removed the agency from further Sunset review. The legislation included a total of 12 changes requiring action.

The following chart summarizes the provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
Requires the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency posting of job openings concurrently with any public posting. (ATB) (Page 2, Line 21)	The Executive Director has not developed rules for intra-agency mobility due to the size of the agency.
Requires the Commission to inform its members and employees of the qualifications for office or employment and each person's responsibility under the law. (ATB) (Page 3, Line 6)	The Commission has not proposed or adopted rules to comply with this provision.
Requires the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB) (Page 3, Line 17 thru Page 4, Line 9)	The Executive Director has not developed an EEO policy required to be on file with the Governor's Office.



**TEXAS STATE LIBRARY AND ARCHIVES COMMISSION
S.B. 366**

S.B. 366, as adopted by the 74th Legislature, continued the Texas State Library and Archives Commission (TSLAC). The legislation included a total of 21 changes requiring action.

The following chart summarizes the provision that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
Requires the Commission to comply with state and federal laws related to program and facility accessibility and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs. (ATB) (Page 7, Line 10)	The Director and Librarian has appointed an ad hoc committee to develop a plan which addresses accessibility for non-English speaking persons.
Requires the Commission to clearly separate its policy-making responsibilities from the management responsibilities of the Director and Librarian, and staff of the Commission. (ATB) (Page 7, Line 6)	A draft of rules to formalize the division of responsibilities among the Commission, Director and Librarian, and staff is currently under consideration by the Commission.
Requires the Director and Librarian or a designee to develop an employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. (ATB) (Page 8, Line 17)	The Commission is in the process of reviewing its equal employment opportunity plan, which is scheduled for review by the Texas Commission on Human Rights in fiscal year 1998.
Entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license. (ATB) (Page 15, Line 2)	The Commission has not yet amended its rules to provide an administrative hearing for the removal of a county librarian's certificate.
Establishes a cost recovery procedure for records storage services at the State Records Center. Also requires agencies to submit an estimate of services to the Commission each biennium. (Page 18, Line 15)	Preliminary fees have been established and the agency anticipates adopting a formal fee schedule in June 1997.



TEXAS WORKERS' COMPENSATION INSURANCE FUND H. B. 1090

H.B. 1090, as adopted by the 74th Legislature, continued the Texas Workers' Compensation Insurance Fund. The legislation included a total of 22 changes requiring action.

The following chart summarizes and provides the status of the provision that has not been fully implemented.

Bill Provision	Implementation Status
Requires the Fund to comply with the minority hiring guidelines found in the General Appropriations Act. (ATB) (Page 10, Line 19)	Although the President of the Fund reviews the Human resources management report every month to ascertain the diversity of the Fund's workforce, no policy exists to comply with the hiring guidelines in the General Appropriations Act.

Appendices

Appendix 1

Across-the-Board Recommendations

Using the criteria established by the Sunset Act for reviewing agencies, the Sunset Commission has developed specific overall standards to ensure that agencies meet these criteria. General standards apply to all agencies regardless of their function, while licensing standards apply only to agencies or programs with a licensing function. These standards address common problems, particularly a lack of public representation on the Board or Commission, unresponsiveness to complaints filed by the public, unresponsive enforcement powers, absence of a standard approach to equal employment, and avoidance of legislative review of expenditures through the appropriations process. The Sunset Commission has developed and followed a policy of including these standards in any legislation that continues an agency. The recommended approaches to these overall problems are set out and briefly explained below.

General

(APPLICABLE TO ALL AGENCIES)

1. Require at least one-third public membership on state agency policymaking bodies.

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. The requirement that at least one-third of the members be representatives of the general public would ensure appropriate representation.

2. Require specific provisions relating to conflicts of interest.

An agency may develop close ties with professional trade organizations and other groups that may not be in the public interest. Conflicts of interest can also result when Board or Commission members or an agency's general counsel are involved in lobbying. These provisions are necessary to prevent these kinds of relationships or conflicts from developing.

3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.

State agencies must be fair and impartial in their operations. The achievement of this goal is aided by the existence of policymaking bodies whose appointees have been chosen on an impartial and unbiased basis.

4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.

Presiding officers of state Boards and Commissions in Texas have traditionally been elected by their fellow members. In an effort to increase state agencies' accountability, the Legislature has routinely authorized the Governor to appoint the presiding officer of state policymaking bodies. Using this approach will ensure that the Legislature's standard policy is applied to every agency undergoing Sunset review.

5. Specify grounds for removal of a member of the policymaking body.

Several of the preceding across-the-board provisions set out appointment requirements for Board or Commission members (e.g., conflict-of-interest requirements). This provision directly specifies that it is grounds for removal of a Board or Commission member if these requirements are not met. In addition, the provision clarifies that if grounds for removal exist, actions taken by the Board or Commission during the existence of these grounds are still valid.

6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.

This recommendation ensures that an agency's policymaking body and employees are informed of provisions in state law concerning standards of conduct for state officers and employees.

7. Require training for members of policymaking bodies.

Members of state Board and Commissions should be provided with adequate information and training to allow them to properly discharge their duties. This provision requires training to be provided and establishes the type of training that should be done and the information to be included.

8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.

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 policymaking body administering the agency in addition to setting agency policy.

9. Provide for public testimony at meetings of the policymaking body.

This requirement ensures the opportunity for public input to the policymaking body on issues under its jurisdiction.

10. Provide for notification and information to the public concerning agency activities.

The Sunset review process has shown that the public is often unaware of the regulatory activities of agencies. Consequently, the effectiveness of agencies in serving the general public may be limited. To help ensure public access to the services of licensing agencies, steps should be taken to provide information on their services to the general public.

11. Require the agency to comply with the state's open meetings law and administrative procedures law.

The Legislature has enacted several laws to ensure that government is open to Texas citizens. Placing the requirement that agencies comply with these laws

ensures that the provisions of these laws apply uniformly to all agencies.

12. Require development of an accessibility plan and compliance with state and federal accessibility laws.

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.

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

Various agencies are not subject to legislative control through the state's appropriation process. 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 can be assured of: 1) full accountability for all state funds on a uniform basis for all agencies; 2) periodic review by the Governor's 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.

14. Require information to be maintained on complaints.

The Sunset review process has shown that complete and adequate information about complaints is 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 are developed and maintained on all complaints. This provision would also ensure that all parties to a complaint are made aware of the status of the complaint and agency policies and procedures pertaining to complaint investigation and resolution.

15. Require agencies to prepare an annual financial report that meets the reporting requirements in the appropriations act.

This approach improves legislative oversight of agencies' fiscal activities by requiring agencies to file an annual financial report in accordance with the financial reporting requirements in the appropriations act.

16. Require development of an equal employment opportunity policy.

This recommendation ensures that each agency develops a written, comprehensive equal employment opportunity plan that 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.

17. Require the agency to establish career ladders.

Policies resulting from this recommendation enhance career mobility and advancement for employees within the agency.

18. 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 in a fair and consistent manner.

Licensing

(APPLICABLE 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. This provision also clarifies that a person whose license has expired may not engage in activities that require a license until the license has been renewed.

2. Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.

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. This provision also 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 assisting the examinee to acquire the skills and knowledge to pass the exam and provide the public with quality services.

3. Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.

Agencies should be allowed to establish a procedure to license out-of-state applicants without examination if the applicant is currently licensed by another state. This 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.

Two approaches to licensing out-of-state applicants are endorsement and reciprocity. Licensure by endorsement requires the licensing agency to review each applicant's credentials before issuing a license to determine if the applicant was required to meet substantially equivalent requirements in another state. Licensure by reciprocity allows the licensing agency to enter into a reciprocal agreement with another state under which each state will accept the other state's licensees. These licensing approaches are not mutually exclusive and, if appropriate, agencies could be authorized to use both approaches.

4. Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.

Provisional licenses allow license applicants who hold a license in another state to practice in Texas while their credentials are being evaluated. Provisional licenses can be issued only if the individuals meet certain requirements such as passing a recognized examination and being sponsored by a Texas licensee.

5. 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.

6. 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 the agency. However, in many cases licensing agencies are not given a sufficient range of

penalties. This provision is intended to ensure that the appropriate sanctions for offenses are available to the agency. The general range of sanctions are: revocation of a license, suspension of a license, refusal to renew a license, probation of a person whose license has been suspended, or reprimand of a licensee.

7. Specify disciplinary hearing requirements.

The statutes of various licensing agencies contain hearing provisions that parallel or are overruled by the provisions enacted in the state's administrative procedures law. This across-the-board approach is a "clean-up" provision that directly specifies that a person who is refused licensure or sanctioned is entitled to a hearing and that such proceedings are governed by the administrative procedures law, Chapter 2001, Government Code.

8. Revise restrictive rules or statutes to allow advertising and competitive bidding practices that 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.

9. Require the policymaking body to adopt a system of continuing education.

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.

Appendix 2

History of Sunset Commission Action - 1979 to 1997											
	1979	1981	1983	1985	1987	1989	1991	1993	1995	1997*	(% of all Agencies Reviewed)
Legislative Session	66th	67th	68th	69th	70th	71st	72nd	73rd	74th	75th	
Agencies Reviewed	26	28	32	31	20	30	30	30	18	21	266
Agencies Continued	12	22	29	24	18	25	22	19	17	19	207 (78%)
Agencies Abolished Outright	8	2	3	6	2	3	3	0	0	0	27 (10%)
Agencies Abolished & Functions Transferred	1	3	0	0	0	2	3	1	1	0	11 (4%)
Agencies Combined	4	1	0	0	0	0	2	10	0	2	19 (7%)
Agencies Separated	1	0	0	1	0	0	0	0	0	0	2 (1%)

*Legislative action has not occurred on these agencies. Action noted is that recommended by the Sunset Commission.





Appendix 3

Upcoming Sunset Review Schedule - 1999 (29 agencies)

DISABILITIES

Blind, Texas Commission for the
Deaf and Hard of Hearing, Texas Commission for the
Developmental Disabilities, Office for the Prevention of
Developmental Disabilities, Texas Planning Council for
Mental Health and Mental Retardation, Texas Department of
People with Disabilities, Governor's Committee on
People with Disabilities, Texas Council on Purchasing from
Rehabilitation Commission, Texas

HEALTH AND HUMAN SERVICES

Aging, Texas Department on
Cancer Council, Texas
Children's Trust Fund of Texas
Health, Texas Board and Department of
Health and Human Services Commission, Texas
Homeless, Texas Interagency Council for the
Hospital Equipment Financing Council, Texas
Housing and Community Affairs, Texas Department of
Human Rights, Commission on
Human Services, Texas Department of
Immigration and Refugees, Governor's Advisory Committee on
Rural Health Initiatives, Center for
Workforce Commission, Texas
Workforce Development Legislative Oversight Committee
Workforce and Economic Competitiveness, Council on

CRIMINAL JUSTICE

Criminal Justice, Texas Department and Board of

MISCELLANEOUS

Budget Execution, State
Emergency Communications, Advisory Commission on, State
Incentive and Productivity Commission, Texas
Veterans Commission, Texas
Veterans Land Board, Texas



Appendix 4

Summary of the Texas Sunset Act

Sunset Act

The Texas Sunset Act (Chapter 325, Government Code) was passed by the 65th Legislature and went into effect in August 1977. The Sunset Act is a comprehensive law that provides for automatic termination of most agencies under sunset review, although a few agencies under review are exempt from automatic termination. A state agency is subject to the Sunset Act if it has a date for review or abolishment set in its statute. When a state agency is reviewed, all of its programs and functions are also evaluated and abolished unless specifically recreated.

Commission

The 10-member Sunset Advisory Commission has four members of the Senate and one public member appointed by the Lieutenant Governor, and four members of the House and one public member appointed by the Speaker of the House. The chairmanship rotates between the Senate and the House every two years.

Review Procedure

The Commission is required by law to review the agencies scheduled for termination. The Commission may also expand the scope of a sunset review to include agencies not under review that overlap or duplicate the programs of the agency being reviewed. The Sunset Act sets specific timeframes for the review process and lists the criteria for determining whether a need for the agency exists and reviewing the operations of the agency. The Commission's report on an agency must include a recommendation to abolish or continue the agency and may also contain recommendations to correct problems identified during the review.

Continuing an Agency

If the Commission recommends that an agency be continued, the Commission must have legislation drafted for that purpose and to correct problems identified during the review. An agency is usually continued for 12 years. Although not required by law, the Commission's

legislative members traditionally sponsor the legislation to continue an agency.

Terminating an Agency

If an agency is abolished, the Sunset Act provides for a one-year period for the agency to wind down its operations. The agency retains full authority and responsibility until the end of that year. At the end of the year, all property and records are transferred to the appropriate state agency.

Compliance Reviews

The Sunset Advisory Commission is required by law to examine an agency's actions after a Sunset review to determine if the agency has implemented the recommended statutory changes. The State Auditor is also required to examine and report on the agency's compliance with non-statutory management changes recommended by the Commission.

Sunrise Laws

The Legislature passed a "sunrise" law in 1985 that requires the Sunset Advisory Commission to comment on proposed new regulatory agencies and advisory committees. The Commission reviews the proposed legislation and sends a written response to the bill's sponsor and to the chair of the committee that will hold hearings on the bill. The sunrise process enables the Legislature to use the Commission's experience in considering the need for new regulatory agencies.

Review Criteria

In reviewing an agency, the Texas Sunset Act sets out specific criteria that must be considered in determining the need to continue that agency. In addition, the Sunset Act requires the Commission's staff to evaluate each agency on the basis of the criteria contained in the Act and to issue a report detailing the findings of the evaluation. A summary of the criteria established by the Sunset Act is set out below.

1. Efficiency of operation.
 2. Extent to which statutory objectives have been achieved.
 3. Assessment of less restrictive or alternative methods of regulation.
 4. Extent to which existing advisory committees are needed and used.
 5. Extent of duplication or overlapping jurisdictions and possibilities for consolidation with other agencies.
 6. Whether the agency has recommended statutory changes that benefit the general public rather than the regulated entity.
 7. Promptness and effectiveness with which the agency handles complaints.
 8. Extent to which the agency has encouraged participation by the public and the extent to which resulting rules are compatible with agency objectives.
 9. Extent of compliance with federal and state requirements regarding equality of employment opportunity and the rights and privacy of individuals.
 10. Extent to which changes are needed to the agency's statute to enable it to comply with Sunset criteria.
 11. Extent to which the agency issues and enforces rules relating to potential conflict of interest of its employees.
 12. Extent to which the agency complies with the Open Records Act and the Open Meetings Act.
 13. Impact in terms of federal intervention or loss of federal funds if the agency is abolished.
- review work between the Sunset Commission and the Legislative Budget Board during the Commission's current review cycle as well as staff support for projects by the State Auditor's Office.

Coordination with Other Oversight Agencies

The Sunset Commission coordinates its review efforts with those of the other legislative agencies with oversight responsibilities: the Legislative Budget Board and the State Auditor's Office. As required by law, the three agencies have established a committee which meets on a monthly basis to coordinate oversight activities. A representative of the Texas Performance Review Division of the Comptroller's Office also participates in these coordination meetings. This effort has led to joint