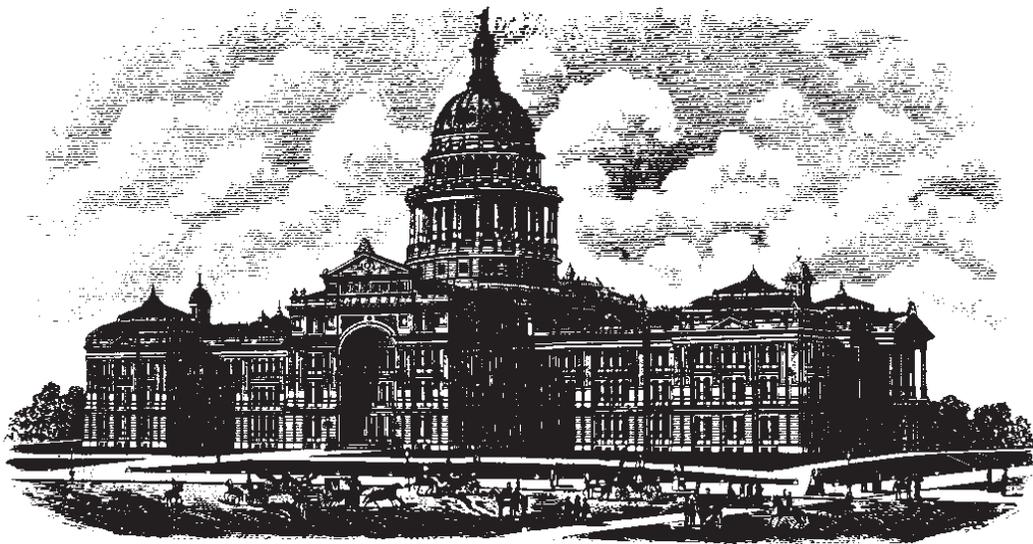


Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

E.E. Myers Architect

Sunset Report to the 76th Legislature



1999

SUNSET ADVISORY COMMISSION

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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.

Sunset Advisory Commission

Sunset Report to the 76th Legislature

1999



SUNSET ADVISORY COMMISSION

P.O. Box 13066 ♦ Austin, Texas 78711-3066

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Sen. J.E. "Buster" Brown
Lake Jackson

Sen. Chris Harris
Arlington

Sen. Frank Madla
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Sen. Judith Zaffirini
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Honorable Bob Lanier
Houston

February 9, 1999

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Lieutenant Governor of Texas

The Honorable Pete Laney
Speaker, Texas House of Representatives

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Assembled in Regular Session

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Ladies and Gentlemen:

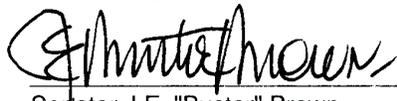
The Sunset Commission, established in 1977 by the 65th Legislature, is directed by law to review and evaluate the performance of specified agencies; recommend the abolition or continuation of these agencies; propose needed statutory or management changes; and develop legislation necessary to implement any proposed changes.

In preparation for the 76th Legislative Session, the Sunset Commission worked to develop recommendations for 25 agencies scheduled for Sunset review this session. The agencies up in 1999 include the majority of health and human services agencies, the entire criminal justice system, the Department of Public Safety, and the Office of Attorney General's collection of child support. Collectively, funding for these 25 agencies represents over one-third of the State's budget.

From September 1997 to January 1999, the Sunset Commission held nine public meetings to take public testimony, listen to staff recommendations, and make decisions on recommendations to forward to the 76th Legislature. This report includes more than 345 recommendations for changes that we feel will significantly improve the operations of these agencies, make better use of tax dollars, and improve services to some of the State's most vulnerable citizens.

The members of the Sunset Advisory Commission are pleased to forward to you their findings and recommendations in this report. We hope you will find this report informative and useful in your deliberations on the numerous Sunset bills that will come before you this session.

Respectfully submitted,


Senator J.E. "Buster" Brown
Chair


Representative Patricia Gray
Vice Chair

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Introduction

Introduction

The Sunset law in Texas, enacted over 20 years ago, provides for the periodic review of the efficiency and effectiveness of state agency operations and policies. The Sunset process works by imposing a date on which an agency is abolished if the Legislature does not pass a bill to continue its operations. An agency under review must first prove to the Legislature that it is still needed. Then, legislation reauthorizing the agency and its functions must be passed and signed by the Governor. Unless all of these things occur, the agency is automatically abolished and the “sun sets” on its operations.

The 76th Legislative Session

For the 76th Legislative Session, 25 agencies are up for Sunset review. The agencies set for consideration by the Legislature this year include the majority of health and human services agencies, the entire criminal justice system, the Department of Public Safety, and the Office of Attorney General’s collection of child support. Collectively, funding for these 25 agencies represents over one-third of the State’s budget.

In the 17 months from September 1998 to January 1999, the Sunset Commission worked extensive with each of these agencies evaluating both the need for each agency, as well as its functions. The Commission held nine public meetings to review staff recommendations and hear suggestions from the agencies and the general public on both the need for each agency and how its operations could be made better.

As a result of its deliberations, the Sunset Commission recommends that the 76th Legislature pass legislation continuing 23 of the 25 agencies under review, with significant improvements to each agency continued. The Commission also recommends that one agency, the Hospital Equipment Financing Council be abolished. And finally, the Commission recommends that Department on Aging be combined, but merged with several other programs into a new long-term care agency.

Altogether, the Sunset Commission adopted more than 345 recommendations to improve agency operations, consolidate and integrate agency programs, increase money available for services, and make government more accessible to the people of Texas. The Commission’s major recommendations are highlighted

on the next two pages. Following that is a chart summarizing the Sunset Commission’s decisions regarding the continuation of the agencies under review, an estimate of the two-year fiscal impact of recommended changes, and the members of the Sunset Commission sponsoring each Sunset bill.

Fiscal Impact Summary

Overall, the Sunset Commission’s recommendations should have a significant positive fiscal impact. If adopted, the recommendations would have an estimated net gain/savings of over \$36.5 million in fiscal years 2000-2001. The chart at the end of this section shows the fiscal impact by agency and a detailed explanation follows each recommendation.

Guide to this Report

The body of this report summarizes the Sunset recommendations regarding each agency, and provides additional information on the fiscal implications of each of the individual recommendations. More detailed information on many of these recommended changes can be obtained by obtaining the original Sunset staff report on a particular agency, visiting the Commission’s web site, or contacting the Sunset Commission staff directly.

In addition to the agency specific recommendations, the Sunset Commission applied its standard across-the-board recommendations to each of 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. The chapter on the across-the-board recommendations briefly explains each of these provisions, followed by a chart detailing how they were applied to each of the 25 agencies under review.

Finally, this report includes a status report on agency implementation of the Sunset legislation from 1997. The Commission is charged with reviewing the way each agency implements the provisions of its Sunset bill after it goes through the Sunset review process. The chapter on implementation shows that more than 96 percent of the changes enacted as a result of the 1997 Sunset bills have been implemented.

Major Recommendations to the 76th Legislature

Health and Human Services Commission

- Continue the Commission and strengthen its control over state health and human services (HHS) programs.
- Give the HHSC Commissioner clear authority to manage and pursue improvements across HHS agencies in five key operational areas: federal funds management, purchasing and contracting, information systems, Medicaid managed care, and regional management.
 - Provide HHSC with authority over all federal funds received by HHS agencies to ensure the most effective use of those funds.
 - Consolidate all HHS contracting activities, with the assistance of the agencies, into a single, statewide system.
 - Strategically plan and oversee HHS information resource projects, with direct responsibility for the Texas Integrated Enrollment and Services (TIES) project.
 - Require the Health Care Information Council, with the advice of HHSC, to examine the success of Medicaid managed care.
 - Assess the benefits of consolidating HHS support services in regional offices and in Austin, and develop a plan and schedule for consolidation where beneficial.
- Create a Legislative Oversight Committee to monitor the efforts of HHSC, recommend changes as needed, and ensure public input.

Department of Mental Health and Mental Retardation

- Conduct long-range planning for institutions, including estimates of future bed requirements and strategies to maximize the future use of existing facilities.
- Integrate service delivery for mental health and substance abuse services by combining administration at the local level, where appropriate.

Long-Term Care Agency/Department on Aging

- Create a long-term care agency (LTC) through the consolidation of related service delivery and regulatory programs at the Department of Human Services, Department on Aging, Department of Health, and the Texas Rehabilitation Commission.
- Maintain the Department on Aging as an independent Aging Policy Council, administratively attached to the LTC Agency, to serve as an advocate for the elderly.
- Maintain the current system of Area Agencies on Aging for service delivery, when appropriate.

Department of Human Services

- Assess the service needs of families that are at-risk of being sanctioned or exhausting Temporary Assistance for Needy Families (TANF) benefits and divert them into preventative and support services. Prioritize the processing of TANF sanctions.
- Include client care performance standards in DHS's contracts with community care and nursing facility providers.
- Require the DHS Commissioner to enter into performance agreements with Regional Administrators.

Texas Department of Health

- Require TDH to analyze its organizational structure and operations to streamline administration and improve service delivery.
- Require TDH to integrate related health care delivery programs to minimize administrative overlap, reduce the bureaucratic burden on providers, and improve services.
- Require TDH to develop a process that ensures greater public input in the development of rules.
- Require TDH to examine its regulatory programs, with the aid of the State Auditor's Office, to ensure its appropriately overseeing these regulated populations.

Texas Rehabilitation Commission

- Improve purchasing procedures and establish a rate setting methodology, in rules, that ensures best value purchasing. Strengthen standards for approving medical services for clients, and plan to manage potential liability.
- Provide more oversight and direction to vocational rehabilitation counselors.
- Refer appropriate vocational rehabilitation clients to local workforce centers for employment services.
- Implement a system to more effectively transition students with disabilities from school to work.
- Request that the State's leadership inquire of the Social Security Administration the reasons why Texas's current denial rate for disability determinations exceeds the national average.

Child Support Enforcement, Office of the Attorney General

- Continue the Child Support Enforcement Division at the Attorney General's Office for a two-year "probationary" period. Direct the Sunset Commission to perform a compliance and performance review of the Division and report its findings to the 77th Legislature.
- Institute and publicize a single complaint system that responds to, tracks, and resolves client complaints. Implement an ombudsman program to handle difficult or long-standing problems.
- Reduce duplication by evaluating the benefits of contracting with other state agencies to provide certain related services.
- Set up an ongoing process to ensure the regular involvement of counties and district courts in the development of child support initiatives.

Texas Commission on Human Rights

- Strengthen TCHR's authority to collect and analyze workforce information, and to provide technical assistance and training.
- Give all public employees who have suffered discrimination the same rights to pursue compensatory damages under Texas Commission on Human Rights Act, regardless of the size of their employer.

Department of Public Safety

- Increase the size of the Public Safety Commission from three to six-members.
- Strengthen the authority of DPS's internal audit, inspection and planning, and internal affairs departments.
- Improve employee relations by formalizing grievance procedures, using mediation, and creating an Employee Relations Office.
- Authorize DPS to conduct driver's license transactions electronically.

Texas Department of Criminal Justice

- Change the way community supervision and corrections departments are funded to provide more flexibility while ensuring accountability over how the funds are spent.
- Improve oversight of Texas Correctional Industries and direct it to operate at a profit while reducing recidivism by providing offenders with needed job skills.
- Add three members to the Correctional Managed Health Care Advisory Committee, who are not affiliated with the TDCJ's health care providers, and strengthen its responsibilities to manage and be accountable for TDCJ's health care system.

Texas Board of Private Investigators and Private Security Agencies

- Require all applicants for registrations to submit to state and federal criminal history checks.

Advisory Commission on State Emergency Communications

- Move the State's 911 Funds into the State Treasury to improve accountability and strategic planning.

Texas Incentive and Productivity Commission

- Fund the agency through General Revenue and allow participating agencies to retain all savings achieved through the program.

Center for Rural Health Initiatives

- Develop and implement a rural health work plan to address the unmet health care needs of rural communities.

76th Session Sunset Summary Information

Agency	Action	Two-Year Fiscal Impact		Bill Sponsor	
		State	Federal	Senate	House
Aging, Texas Department on	Consolidate	Potential Savings	CBE*	Zaffirini	Gray
Blind, Texas Commission for the	Continue	\$700,000	\$750,000	Zaffirini	Gray
Texas Cancer Council	Continue	No Impact	No Impact	Madla	Bosse
Child Support Enforcement, Office of the Attorney General	Continue	Potential Savings	CBE*	Harris	Bosse
Children's Trust Fund Council	Continue	No Impact	No Impact	Zaffirini	Gray
Correctional Managed Health Care Comm.	Continue	(\$100,000)	No Impact	Brown	Gray
Criminal Justice, Texas Department of	Continue	\$2.8 million	No Impact	Brown	McCall
Deaf and Hard of Hearing, Texas Commission for	Continue	Potential Savings	No Impact	Harris	Gray
Developmental Disabilities, Texas Office for Prevention of	Continue	No Impact	No Impact	Zaffirini	McCall
Developmental Disabilities, Planning Council for	Continue	No Impact	No Impact	Zaffirini	McCall
Early Childhood Intervention, Interagency Council on	Continue	\$5.1 million	\$10.3 million	Harris	Gray
Emergency Communications, Advisory Commission on State	Continue	\$4.9 million	No Impact	Madla	Bosse
Health and Human Services Commission	Continue	Potential Savings	CBE*	Brown	Gray
Health, Texas Department of	Continue	\$2.8 million	\$2.2 million	Brown	McCall
Hospital Equipment Financing Council	Abolish	No Impact	No Impact	Brown	McCall
Human Rights, Texas Commission on	Continue	Potential Savings	No Impact	Madla	Bosse
Human Services, Department of	Continue	Potential Savings	No Impact	Zaffirini	Bosse
Incentive and Productivity Commission, Texas	Continue	(\$450,000)	No Impact	Harris	Bosse
Mental Health and Mental Retardation, Texas Department of	Continue	(\$13,000)	No Impact	Madla	Gray
Pardons and Paroles, Board of	Continue	No Impact	No Impact	Brown	McCall
People with Disabilities, Committee on	Continue	No Impact	No Impact	Zaffirini	McCall
Private Investigators and Private Security Agencies, Texas Board of	Continue	(\$15,000)	No Impact	Harris	Bosse
Public Safety, Department of	Continue	(\$30,000)	No Impact	Brown	Bosse
Rehabilitation Commission, Texas	Continue	\$1.5 million	\$6 million	Madla	Gray
Rural Health Initiatives, Center for	Continue	No Impact	No Impact	Madla	McCall
Fiscal Impact Totals		\$17.2 million	\$19.3 million		

*Cannot be estimated.

Health and Human Services

Health and Human Services

The 1999 legislative session presents a unique opportunity for the Legislature to significantly impact how health and human services are delivered in Texas. Almost every health and human services agency is up for Sunset review, as well as the Health and Human Services Commission, which is responsible for ensuring coordination across these agencies.

In Texas, 14 state agencies, with an appropriation exceeding \$26 billion for the 1998-99 biennium, are responsible for delivering health and human services. As many as 10 other related agencies also provide some services to health and human service clients. No other large state relies on so many agencies to deliver services. Each of these state agencies works in partnership with a complex network of local government agencies, federal agencies, contractors, volunteers, advocates and consumer organizations to provide services to clients across the state.

Over the last thirty years, the Legislature has repeatedly searched for new ways to evaluate and improve the maze of health and human services. In 1991, in response to ongoing concerns, the Legislature created the Health and Human Services Commission (HHSC) "to enforce the coordinated delivery of services." The Commission was envisioned as an answer to streamlining and improving health and human services.

Despite its strong legislative mandate, HHSC has not succeeded in improving health and human services. In 1997, the State Auditor concluded that HHSC had not effectively carried out its health and human service oversight responsibilities or increased the effectiveness and efficiency of health and human services. Recent Sunset reviews of health and human services agencies confirm the State Auditor's conclusion.

Eight years after HHSC's creation, health and human service agencies continue to work in isolation, services are fragmented, and the State is still lacking an overall strategic vision or direction for these critical programs. Individual agencies continue to have little incentive to coordinate their programs or support activities. This lack of integration across the multitude of agencies continues to be a barrier to change that could lead to improved service delivery.

In preparation for the 76th Session, the Sunset Commission not only reassessed the performance of each of the individual health and human services agencies under review, but examined the overall organization of health and human services in the state. In looking at HHSC and each of the health and human services agencies, the Sunset Commission sought ways to improve services across agencies by evaluating the following areas.

- The need for the Health and Human Services Commission and its functions.
- The need for each of the 10 health and human services agencies under review.
- Key issues or problems that cut across the numerous health and human services agencies.
- Ways to consolidate or integrate programs across agencies to improve services.
- Ways to better pull together agencies and resources to more effectively meet Texas' human services needs; whether through HHSC or some other means.

The results of these efforts were documented in separate Sunset Staff reports on each of the health and human services agencies under review, as well as a report on the Health and Human Services Commission and the organization and delivery of Health and

Human Services. Extensive public input was obtained on each of these agencies, as well as on the Sunset staff's recommendations for changes to improve these agencies.

This section of the report details the Sunset Commission's final recommendations on HHSC and each of the health and human services agencies under review. Issues that cut across agencies are presented, or referred to, within the section on the agency that was most significantly affected by the recommended change.

Fragmentation of services across multiple agencies was a critical area of concern. Long-term care services was one area where the involvement of multiple state agencies was seriously affecting the quality of care. The Commission determined that the most effective means for addressing these problems would be to merge services into a single long-term care services agency. In other cases, where agency consolidation may not have been a viable option, changes to ensure better integration of services were developed to reduce any duplications in service delivery. These recommendations are

presented throughout this section of the report under the heading of the agencies involved.

Other common themes emerged within the individual reviews, such as problems with purchasing, contracting, and setting rates; and the Sunset Commission recommends changes to address these problems within those agencies. However, the Sunset Commission also determined that many of these common operational problems could be more systemically addressed by the Health and Human Services Commission. The Sunset Commission concluded that, if continued, HHSC must be given much greater and clearer authority over the operations of the individual health and human service agencies if it is to make these much needed improvements.

Together, the 200 recommendations in this report addressing health and human services are intended to significantly improve the administration and management of these agencies. This, in turn, should result in more comprehensive and easily accessible services, regardless of which agency door a client enters.

Health and Human Services Commission



Key Agency Duties

- Facilitate and enforce coordinated planning and delivery of health and human services, including compliance with the coordinated strategic plan, co-location of services, integrated intake, and coordinated case management.
- Establish a federal health and human services funds management system and maximize the availability of those funds.
- Carry out statewide health and human services needs surveys and forecasting.
- Perform independent outcome evaluations of selected HHS programs and activities.
- Set overall policy direction for the State Medicaid program, manage interagency initiatives to maximize federal Medicaid dollars, and improve the quality of services by serving as the single state Medicaid agency.

Appropriation for FY 1999: \$19.4 million

Number of Employees: 180

Statutory Reference: Health and Human Services Code, Chapter 531

Agency Head: Don Gilbert, Health and Human Services Commissioner,
(512) 424-6502

Recommendations

1. Continue the Health and Human Services Commission for Eight Years	9
2. Increase HHSC's Operational Control Over Health and Human Services Programs	9
3. Establish HHSC as Lead Agency in Managing Federal Funds	10
4. Strengthen HHSC's Oversight of Purchasing and Contracting	12
5. Improve Information Systems Planning and Management	13
6. Strengthen HHSC's Operational Control Over Medicaid Managed Care and Require the Health Care Information Council to Assess the System's Performance	14
7. Improve the Regional Management of Health and Human Services Agencies	15

Health and Human Services Commission



8.	Improve Access to Information about Health and Human Services	17
9.	Strengthen the Role of the Guardianship Advisory Board to Plan and Coordinate Services	17
10.	Move the Empowerment Zone and Enterprise Community Program to the Department of Economic Development	19
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ISSUE 1

Continue the Health and Human Services Commission For Eight Years.

The Legislature created the Health and Human Services Commission in 1991 to enforce the coordinated delivery of the State's health and human services. HHSC has not accomplished many of the goals set by the Legislature, and has not had a significant impact on the operations or decision making of the 11 health and human services agencies under its umbrella. The Sunset Commission found that HHSC does not have the authority necessary to direct the operations and decisions of health and human services agencies. Consequently, within the current organizational and policymaking framework, HHSC cannot fulfill its statutory charges to provide leadership in this area of government. Transferring HHSC's functions to another agency would not solve the problem created by this absence of authority.

Recommendation

Change in Statute

Continue the Health and Human Services Commission until September 1, 2007 only if it is given authority over key operational areas of the State's health and human services agencies.

This recommendation acknowledges that the role of HHSC is critical to improving the delivery of health and human services, but only if HHSC's authority to improve certain key cross-agency operations is strengthened. The specific areas where HHSC should focus its attention — federal funds management, information technology, Medicaid managed care, contracting and purchasing, and in the

management of regional offices and infrastructure — are described in more detail later in this section.

Fiscal Impact

The recommendation to continue the HHSC anticipates that the Commission would continue to receive its current annual appropriation of approximately \$19.4 million.

ISSUE 2

Increase HHSC's Operational Control Over Health and Human Services Programs.

The authority to direct the operations of health and human services agencies is divided among multiple agency boards, executive directors, and the Health and Human Services Commission. Although HHSC is charged with improving the overall operation of the system, each agency's executive director makes operational decisions with little or no input from HHSC. HHSC lacks the authority to require HHS agencies to integrate their operations, and the 11 HHS agencies have not proved willing to voluntarily and cooperatively seek cross-agency efficiencies.

In addition, HHSC has not had the staff necessary to meet its statutory responsibilities. Without access to the resources necessary to plan and implement change, HHSC cannot be held accountable for achieving the legislative objectives outlined in its enabling statute.

Recommendation

Change in Statute

A. Provide the HHSC Commissioner with clear authority to manage the operations of the State's health and human

Continue HHSC only with additional authority over HHS agencies.

services agencies in the areas of federal funds management, Medicaid, information systems development, contracting and purchasing, and regional management. Specify that HHSC shall address the areas of federal funds management, Medicaid, and information systems development before addressing contracting, purchasing, and regional management.

This recommendation would give HHSC the authority to directly manage select key operations of the HHS agencies, and would focus HHSC's activities on areas of government where the greatest improvements can be made. HHSC's expanded management authority would include the ability to direct and supervise the staff of health and human services agencies for the purpose of achieving improvements in these key areas of agency operations.

- B. Specify that future agency executive directors continue to be hired by the respective HHS policy board, but with the concurrence of the HHSC Commissioner and the approval of the Governor.**
- C. Clarify the respective authority of the HHSC Commissioner and the HHS policy boards.**
- D. Require negotiated agreements regarding the performance of the HHSC Commissioner and each respective agency's executive director.**

These recommendations would clarify the relationship between the HHSC Commissioner and the policymaking boards of state health and human services agencies. HHS policymaking boards would continue to select an agency executive director, receive public input, adopt rules, and provide overall direction for the delivery of services. The role of the HHSC Commissioner, and agency boards, as well as the performance expectations for the agency executive

director, should be defined through a negotiated agreement between HHSC and each agency.

- E. Provide HHSC with medical expertise by requiring HHSC to hire a medical director.**
- F. Form an advisory council of county and local government representatives to provide input into the policy and planning activities of HHSC.**

These recommendations would ensure that HHSC has access to the advice and knowledge necessary to perform its expanded duties in the areas of Medicaid and the management of federal funds. The requirement that HHSC serve as the state's lead agency in maximizing federal funds across all funding sources would call for increased participation by local units of government in shaping HHSC's planning and outreach efforts.

Fiscal Impact

These recommendations would not have a direct fiscal impact.

ISSUE 3

Establish HHSC as the Lead Agency in Managing Federal Funds.

In fiscal year 1998, 58.7 percent of the funds received by health and human services agencies, or \$7.4 billion, came from federal sources. Although HHSC is charged with establishing a federal funds management system and maximizing the availability of federal funds, the Commission has not effectively managed federal funds across the health and human services system. HHSC has no overall strategy or objectives for claiming federal funds or directing their best

The Commissioner should have a voice in the hiring of HHS agency directors.

use, and cannot guarantee that the State receives all of the federal funds to which it is entitled.

Federal funding decisions are complex and may involve multiple state and local agencies. In Texas, individual state agencies are often unaware of the impact of their funding strategies on the HHS system as a whole, and an agency’s funding decisions can result in significant missed opportunities or increased costs. All of Texas’ 254 counties are eligible to receive federal funds for some health and human services, but counties are seldom fully aware of the opportunities and conditions tied to federal funds, and often do not have access to the information needed to claim federal funds.

Recommendation

Change in Statute

A. Clearly designate that HHSC is the state agency with authority over all federal funds received by health and human services agencies and should:

- **develop and implement a strategic plan that sets priorities across agencies for the use of federal funds in coordination with the coordinated strategic plan and strategic budget;**
- **review and approve state federal funding plans;**
- **estimate and track potential unspent funds, estimates of federal funds and earned federal funds;**
- **ensure the State meets federal match and maintenance of effort requirements;**
- **coordinate and monitor the use of federal funds to ensure that funds are spent across agencies in the most cost-effective manner;**

- **transfer appropriated amounts, within limits set by the Legislature, to enhance receipt of federal funds and respond to client needs; and**
- **ensure that local units of government have access to complete and timely information about all sources of federal funds for health and human services programs, and that technical assistance is readily available to obtain federal funding.**

B. Require HHSC to submit an annual report to the Legislature and the Governor on federal funding issues. The report should identify ways to maximize the use of federal funds and detail strategies to improve federal funds management. In addition, the results of past activities to better manage federal funds should be reported.

Management Action

Require HHSC to build its expertise to respond to federal initiatives and maximize opportunities for the use of federal funds by:

- **using existing staff expertise in the health and human services agencies;**
- **coordinating with the Legislative Budget Board;**
- **coordinating with the Office of State-Federal Relations (OSFR), including placing a staff person in OSFR’s Washington, D.C. office;**
- **understanding the full requirements, limitations, and potential uses of new and existing funding sources; and**
- **tracking creative and innovative uses of federal funds by other states or entities.**

These recommendations would require HHSC to actively serve as the lead agency for managing federal funds across the health and human services enterprise. In this role,

HHSC should be able to cross agency lines to guide the use of federal funds.

HHSC would review and approve all HHS agency federal funds requests and plans, and then monitor the expenditure of the funds. HHSC would serve the Legislature and Governor as the lead resource in maximizing and efficiently using federal funds. Equally important, HHSC would be required to effectively support the efforts of local governments to increase federal funding.

Fiscal Impact

These changes should result in a significant increase in the amount of federal funds coming into the state, but no precise estimate can be made at this time. During the last few years, many state agencies have employed consultants to capture additional federal funds. The cost of consultants far exceeds the cost of creating a federal funds analysis capability at HHSC, and even a small staff of HHSC employees engaged in system-wide planning should recover its cost many times over.

HHSC needs to address continuing, systemwide weaknesses in contracting for services.

ISSUE 4

Strengthen HHSC's Oversight of Purchasing and Contracting.

Health and human services agencies spend approximately \$10 billion each year to buy services for clients. Over the past few years, significant and widespread problems with the purchasing and contracting practices of HHS agencies have been identified. Despite the recent focus on contracting problems, HHS agencies continue to experience significant problems in procuring and administering contracts for services, including the lack of performance measures and the failure to use competitive or best value procurement practices. In addition, few of the recent recommendations made by the Legislature and HHSC to improve contracting practices have been implemented. Without a single oversight agency authorized to require

changes in purchasing and contracting practices across agencies, systemwide improvement is limited.

Recommendation

Change in Statute

A. Require the Health and Human Services Commission, with the assistance of the state HHS agencies, to improve HHS agency purchasing and contracting by:

- **establishing statewide contracting and procurement standards;**
- **developing uniform language and formats for common contract provisions to be used by all HHS agencies;**
- **developing a single contract management handbook that establishes consistent contracting policies and best practices to be followed by HHS agencies;**
- **developing a single statewide risk analysis of HHS contracts to prioritize contract monitoring activities, and coordinate contract monitoring efforts among HHS agencies; and**
- **developing a single contract management database, in cooperation with the Comptroller of Public Accounts, that identifies all HHS agency contracts.**

B. Require HHSC to review and approve the procurement and rate-setting process of all HHS agencies to ensure that amounts paid to contractors are consistent and represent best value for the State.

C. Require HHSC to develop and implement a statewide plan to ensure that contractors and subcontractors are in

compliance with the accessibility requirements of the Americans with Disabilities Act.

- D. Require HHSC to prepare, with the assistance of the State Auditor, an annual report to the Legislature and the Governor that thoroughly and objectively assesses the performance of each HHS agency in complying with purchasing and contracting requirements established by the Commission and identifies any material risk to the State or to clients resulting from the agencies' contracting practices.**

These recommendations would require HHSC to develop contracting expertise. At present, the same contracting and purchasing tasks are performed by a large number of employees spread across all HHS agencies. Potential consolidation of some purchasing and contracting tasks such as contract monitoring, legal support, record keeping, and audit in one agency could lead to a reduction of staff or reassignment of staff to perform any new tasks resulting from these recommendations. Because the contracting system is, for the most part, invisible to clients, well-planned administrative changes should not disrupt a client's services.

Fiscal Impact

Improving purchasing and contract administration, including rate-setting, at HHS agencies should result in significant savings to the State and better services for clients. Even a small improvement in the \$10 billion contracting system could yield significant savings, however, these savings cannot be estimated. HHSC should implement these changes with existing resources and assistance from the staff of the 11 health and human services agencies.

ISSUE 5

Improve Information Systems Planning and Management.

Health and human services agencies currently plan and manage information resources projects in a decentralized environment where each agency pursues projects that meet individual program needs. The lack of a single point of accountability for systemwide information systems and technologies contributes to duplication of computer systems, data exchange problems, and systems that are not fully functional.

The Texas Integrated Enrollment and Services (TIES) project is an automation initiative intended to allow multiple state agencies to identify the full range of services for which clients are eligible. TIES has experienced numerous problems, including a lack of clear accountability for the success of the project, extensive staff turnover, and undocumented projected cost savings. Expectations that TIES would be a comprehensive solution to the information resources needs of multiple state agencies has caused other existing computer applications to be shelved while TIES is developed.

Recommendation

Change in Statute

- A. Designate the Health and Human Services Commission as the authority responsible for strategic planning and oversight of the information resources projects of all HHS agencies.**
- B. The Commission should be responsible for establishing the strategic direction for information resources across all health and human services**

agencies. To support improved development of information resources, responsibilities of HHSC should include:

- **developing a coordinated HHS information resources strategic plan;**
- **setting information resources priorities;**
- **establishing and ensuring compliance with policies, procedures, and technical standards; and,**
- **reviewing and approving the Information Resources and Biennial Operating Plans of agencies under the authority of HHSC.**

C. Require HHSC to assume responsibility for the planning, development, and implementation of the Texas Integrated Enrollment and Services project.

These recommendations would establish HHSC as the single planning entity for development of new automated systems. HHSC would be accountable for ensuring that individual health and human services agencies design and establish compatible, integrated systems that support information sharing across agency and program lines.

Fiscal Impact

These recommendations would result in savings to the State from improved coordination of information systems development, consolidated purchasing, and by implementing currently available technologies. Because the recommendation is broad and impacts many agencies, exact savings cannot be estimated. Implementation of the recommendation would require HHSC to organize and draw upon information systems staff and resources across the HHS enterprise.

HHSC would become the central planner for all information systems development.

ISSUE 6

Strengthen HHSC's Operational Control Over Medicaid Managed Care and Require the Health Care Information Council to Assess the System's Performance.

The Medicaid program in Texas serves nearly two million low-income residents. Since 1993, the State has provided Medicaid managed care in addition to the traditional fee-for-service method of health care delivery. The implementation of Medicaid managed care presents challenges for clients, providers, and state agencies. In addition, the State has created a complex system of operating agencies and contractors to administer the program. However, HHSC has not developed adequate information to assess the program's effectiveness in terms of quality of care and whether it meets legislative objectives.

The Health Care Information Council, created by the Legislature in 1995, has collected and reported information about the performance of managed care programs. Expanding the Council's role to include the evaluation of Medicaid managed care would be consistent with the agency's current mandate, and would provide HHSC and the State with an independent, objective source of information regarding the overall performance of the Medicaid managed care system.

Recommendation

Change in Statute

- A. Strengthen HHSC's authority over Medicaid by providing it clear authority over the Medicaid activities of all HHS agencies, including related contracts.**

This recommendation would increase HHSC's direct involvement in the operations of the Medicaid program. As the agency responsible for Medicaid managed care, HHSC should be held accountable for all components of the service delivery system. To be accountable, HHSC should be given the clear authority to plan and direct the operations of the Medicaid program in each state agency. This authority is consistent with the expanded operational authority over all health and human services agencies recommended earlier. In particular, HHSC should be responsible for the development, procurement, management, and oversight of all Medicaid managed care contracts to ensure that contract provisions are consistent with the needs of the various populations who receive Medicaid services.

B. Require the Health Care Information Council, with the advice of HHSC, to examine the success of Medicaid managed care based on the criteria established by the Legislature, including:

- **conducting an in-depth analysis of the success of the Medicaid managed care system;**
- **determining the long-range needs for Medicaid managed care;**
- **identifying critical problems in the Medicaid managed care system and recommending strategies to solve those problems;**
- **assessing the cost-effectiveness of the Medicaid managed care system compared to the fee-for-service system, taking improvements to quality of care into consideration in the comparison; and**
- **advising and assisting the Legislature in developing plans, programs, and proposed legislation for improving effectiveness of the Medicaid managed care system.**

C. Require the Council to develop a plan to accomplish these tasks in conjunction with HHSC, the presiding officer of each standing committee of the Senate and House of Representatives having primary jurisdiction over HHSC, and the Medicaid operating agencies.

D. Require the Council to periodically report to HHSC and the Legislature on the continuing progress of the Medicaid managed care program.

Attempts to collect useful information to assess the impact of Medicaid managed care initiatives have not been successful. The large number of agencies and contractors involved in the delivery of managed care services, and the complex relationships between contractors, hinders problem solving and limits accountability. The Health Care Information Council is the agency best suited to independently monitor the collection of managed care data, assess data accuracy, and judge whether program performance meets legislative objectives.

Fiscal Impact

These recommendations would have a fiscal impact on the State. The Council would need additional staff and resources to accomplish its expanded mission. HHSC should provide the funding required, using current budget transfer authority. HHSC should require each Medicaid operating agency to support the Council's funding needs on a pro-rata basis.

ISSUE 7

Improve the Regional Management of Health and Human Services Agencies.

Most health and human services agencies have a central headquarters in Austin and a number of field offices throughout the state,

The success of Medicaid managed care in Texas needs to be independently evaluated.

organized into regional systems. The central offices generally perform administrative and oversight functions, while service delivery takes place in the regions. Co-location of state agency offices is one mechanism to enhance the delivery of health and human services and to create management efficiencies. However, integrating agency operations through co-location has been only moderately successful. Agencies are able to avoid co-location through the use of emergency leases, and no requirements exist for agencies to share space, equipment, or services once they are co-located.

HHS agencies working together in advisory groups to HHSC have identified ways to improve and integrate regional support functions, but no entity has the authority to plan and direct cooperative efforts. A regional business plan, prepared and implemented by HHSC, could organize and track initiatives to consolidate agency support functions and lead to a significant reduction in the costs of regional operations.

Recommendation

Change in Statute

- A. Specify that HHSC has clear authority to require HHS agencies to co-locate and consolidate support services.**
- B. Require HHSC to assess the potential benefits and costs of consolidating support services across HHS agencies in both regional offices and in Austin, and develop a plan and schedule for co-locating offices and consolidating support services where clear benefits have been identified.**
- C. HHSC should report the results of its assessment of support services and its proposed plan of action to the**

Legislature, the Governor, and the appropriate oversight agencies by September 1, 2000.

- D. Charge HHSC with the development and implementation of an annual business services plan for each HHS region that establishes business performance objectives across HHS agencies and measures agency efficiency and success in achieving those objectives.**

Management Action

HHSC, with the advice of the General Services Commission, should:

- **establish criteria for granting emergency leases that ensure that the emergency was outside of the control of the agency and reasonably unforeseen, and**
- **establish and enforce guidelines concerning shared space and facility management in co-located spaces.**

The creation of a single entity to plan and manage the delivery of support services to the regional offices of state agencies would allow for consolidation of operations and savings from pooled activities, shared software applications, shared facilities, joint purchasing, and numerous other improvements that come about from systems approach that eliminates duplication. Savings achieved by consolidating fragmented administrative support functions should be redirected to provide services to agency clients.

Fiscal Impact

These recommendations should result in significant savings, but no precise estimate could be made at this time. The costs of

HHSC should plan and direct efforts to integrate regional support functions.

supporting approximately 48,000 field office employees would be cut by consolidating multiple, fragmented support services into one business system. Consolidated support services are common in private sector businesses and provide a basis for assessing the financial benefit of consolidation, once the costs of the current system are established.

ISSUE 8

Improve Access to Information about Health and Human Services.

Most clients rely on the telephone directory to find services in their community. Phone books generally do not contain a well-organized description of health and human services providers. In 1997, the Legislature established in law two entities to improve consumer access to information and services — the Texas Information and Referral Network (I&R Network) at HHSC, and the Records Management Interagency Coordinating Council. However, these two efforts were not linked. Texas still has no single, consistent method of organizing and presenting information about health and human services to consumers.

Even efforts to share information within HHSC have not been coordinated. For example, lack of transportation is a common obstacle to receiving health and human services. One HHSC office is working to coordinate regional transportation services. Information about these services has not been a required component of the I&R Network, so clients calling for information do not learn of local transportation options.

Recommendation

Change in Statute

- A. Require the Texas Information and Referral Network and the Records Management Interagency Coordinating Council to establish a single, consistent method of defining and organizing information about health and human services for public access, including presenting the information in telephone directories.**
- B. Require the Texas Information and Referral Network to include information regarding transportation services.**

The public has a fundamental need for information about the services provided by state agencies, but efforts to provide this information have had minimal success. These recommendations implement the intent of the Legislature and assign accountability for organizing and publishing information about local services.

Fiscal Impact

These recommendations would not result in a fiscal impact to the State. The entities involved should accomplish these initiatives with existing resources.

ISSUE 9

Strengthen the Role of the Guardianship Advisory Board to Plan and Coordinate Services.

Guardianship is a protective service that attempts to ensure the well-being of individuals who are alone and cannot manage their personal or business affairs. Based on the growing need for guardianship services, the Legislature directed the Health and Human Services Commission, with the advice

The State should have a consistent method of organizing public information about health and human services.

of the Guardianship Advisory Board, to adopt guardianship standards, develop and implement a statewide guardianship plan, and establish local volunteer guardianship programs.

The Department of Protective and Regulatory Services (PRS) is the primary state agency provider of guardianship services. However, the Guardianship Advisory Board and PRS have not developed a joint effort to achieve a statewide guardianship program, so the Guardianship Advisory Board has little influence over the majority of State guardianship services. As a result, no single entity has knowledge of the full picture of publicly-funded guardianship needs and activities at the local and state levels.

In addition, experience in working with a person or an organization that advocates on behalf of people who frequently need guardians is not a requirement for appointment to the Board.

Recommendation

Change in Statute

- A. Expand the Guardianship Advisory Board by adding three consumer or advocate members, appointed by the HHSC Commissioner; and a representative of the Department of Protective and Regulatory Services, appointed by the PRS Executive Director.**
- B. Specify that the consumer or advocate members should be persons that advocate on behalf of or in the interest of the elderly or persons with mental health or mental retardation.**
- C. Strengthen the role of the Guardianship Advisory Board by adding the responsibilities to:**

A statewide guardianship plan would help protect the rights of vulnerable elderly and disabled people.

- **advise and assist HHSC and PRS in the development of a statewide guardianship program;**
- **review and comment on all state policies, procedures, and rules related to guardianship;**
- **review and comment on guardianship services provided by local entities;**
- **conduct an annual review of guardianship services provided throughout the state; and**
- **recommend an approach to a statewide guardianship system to the Governor and the Legislature.**

Requiring the appointment of three consumer or advocate members would ensure that the views of clients and service providers are represented on the Board. Advocates for the elderly or people with mental illness or mental retardation should have permanent representation on the Board due to their frequent need for guardians.

Expanding the membership of the Guardianship Advisory Board to include a representative from PRS would provide the Board with the expertise regarding guardianship services provided by this agency. Requiring the Guardianship Advisory Board to advise PRS in the development and implementation of a statewide guardianship plan would contribute to a single, clear approach to guardianship in Texas. The Guardianship Advisory Board should also provide PRS and other state agencies with local expertise and input regarding guardianship services.

The Guardianship Advisory Board should take the lead in developing a statewide guardianship system and should be required to review and comment on all state guardianship policies, procedures, and rules to ensure consistency and prevent duplication.

Additionally, the Board should use the information from its annual review of guardianship services to direct the expansion of guardianship services to those areas where there is greatest need.

Fiscal Impact

This recommendation should not result in a significant fiscal impact to the State. While prioritizing the development and use of local guardianship programs could result in some savings, any savings achieved should be used to expand local guardianship programs to additional areas of the state.

ISSUE 10

Move the Empowerment Zone and Enterprise Community Program to the Department of Economic Development.

The Health and Human Services Commission currently administers the federal Empowerment Zone/Enterprise Community (EZ/EC) program and has received approximately \$55 million in federal EZ/EC funds to revitalize economically distressed communities. The administration of EZ/EC funds is outside the scope of HHSC's mission. The Texas Department of Economic Development, the State's designated agency for community development, has the necessary resources and expertise to effectively manage the EZ/EC program. The Department operates a similar state program, and currently participates in the administration of the federal program.

Recommendation

Change in Statute

Transfer the Administration of the Empowerment Zone and Enterprise Communities Program to the Department of Economic Development.

This change would consolidate all economic development tasks within the Department of Economic Development, and help to ensure that communities know where to go for information. This change would also ensure that one agency is accountable for these economic development activities, from the initial application process to program implementation and program evaluation.

Fiscal Impact

Administering the EZ/EC program could result in a small increase in costs to the Department of Economic Development, while reducing costs at HHSC. However, these costs are reimbursed by federal funds and would have no fiscal impact on the State.

Issue 11

Standardize Definitions of Abuse and Neglect in State Facilities.

A number of state agencies, including the Texas School for the Deaf, School for the Blind and Visually Impaired, Juvenile Probation Commission, some University of Texas System psychiatric facilities, and the Texas Youth Commission, investigate abuse and neglect at the facilities they operate. All state agencies use definitions of abuse and neglect to help determine when an investigation of a

complaint is required. In addition, state law requires each agency that conducts an investigation of client abuse or neglect to develop policies to govern and report the investigation. Different definitions of abuse and neglect, and the different investigation policies of state agencies, result in different methods of collecting data and make any comparison across agencies impossible. Different definitions may also mask the prevalence of abuse and neglect in different facilities and settings.

Statewide data is needed on available mental health and substance abuse services.

Recommendation

Change in Statute

Require each agency conducting self-investigations of abuse and neglect to develop and adopt as formal rules common definitions of abuse and neglect no later than September 1, 2000; and require the Department of Protective and Regulatory Services to report these definitions to the Health and Human Services Commission by October 1, 2000.

Consistent definitions of abuse and neglect across all agencies would help to ensure that individuals in out-of-home placements are equally protected from abuse and neglect. Consistent definitions would provide a basis for the collection of accurate, useful data and allow state policymakers to reach conclusions about agency performance and the potential benefit of assigning all investigations to the Department of Protective and Regulatory Services.

Fiscal Impact

No fiscal impact would result from the recommended rulemaking and reporting processes.

ISSUE 12

Coordinate Mental Health and Substance Abuse Services and Planning.

The State does not have a complete picture of the mental health and substance abuse services delivered by State agencies. Although Texas Department of Mental Health and Mental Retardation is the State's primary provider of mental health services, and Texas Commission on Alcohol and Drug Abuse is the State's primary provider of substance abuse services, other agencies provide or purchase these services. Consequently, coordinated planning of services and service delivery is not possible at this time. No statewide data on mental health and substance abuse services is available and no entity is charged with compiling the data. As a result, the quality of care differs from agency to agency due to fragmentation and lack of consistency in standards and performance expectations.

Recommendation

Change in Statute

Require all State agencies that provide mental health or substance abuse services to work with the Health and Human Services Commission to develop a comprehensive services report that lists all services, populations served, and resources expended; assesses overlap of clients served; and describes collaborative initiatives among agencies.

This recommendation would begin consolidating information and planning to coordinate the delivery of state mental health and substance abuse services. HHSC should take the lead in ensuring that each agency offering mental health and substance abuse

services reports the information necessary to complete the picture of the State's efforts in this area.

Fiscal Impact

Implementation of this recommendation would not create significant costs for the HHS agencies involved, and HHSC already receives an appropriation for service integration studies.

Issue 13

Require HHSC to Study the Organizational Structure of Texas' Health-Related Regulatory Programs.

The Texas Department of Health (TDH) provides administrative support for 55 diverse health-related regulatory programs. Together, TDH programs regulated more than 129,000 facilities and 118,000 professionals in fiscal year 1997. Performance statistics show that despite the large number of regulated entities, relatively few violations and enforcement actions are taken by TDH. Even though some TDH regulatory programs receive high numbers of complaints, enforcement actions are infrequent. The reason for this apparent lack of enforcement action is unclear, and may vary among regulatory programs. Ways of improving TDH's regulatory oversight bear more study. In particular, organizational alternatives that move regulatory functions out of TDH may improve regulatory enforcement, and warrant consideration.

Recommendation

Change in Statute

Require HHSC to consider consolidation and/or organizational alternatives for TDH's regulatory programs.

This recommendation would require HHSC to examine the structure of health-related regulatory programs to determine the most effective organizational structure. Specific organizational alternatives that should be considered by HHSC include establishing a new agency to consolidate regulatory functions, expanding the responsibilities of the Health Professions Council, and maintaining health-related regulatory programs at the Department of Health.

Fiscal Impact

This recommendation would have no fiscal impact and should be done with existing staff and resources.

ISSUE 14

Provide a Framework for More Comprehensive, Community-Based Services.

Since its creation in 1991, HHSC has been directed to explore ways to improve the service delivery system by fostering innovation at the local, community level. In 1997, the Legislature directed HHSC to identify local government entities that coordinate health and human services and help local government to coordinate service delivery plans to more effectively use multiple funding sources.

Although HHSC has developed several initiatives to support a more comprehensive approach to delivering local services, these initiatives have generally not moved beyond the pilot phase. In many cases, the policies of individual health and human services agencies pose barriers to community efforts to develop integrated local services. Each state agency requires a separate, different application for funding, may have different

criteria for what clients may be served, and uses different reporting and contract monitoring processes.

Communities should be free to design their approach to local service delivery.

Recommendation

Change in Statute

- A. Designate the Health and Human Services Commission as the lead agency responsible for developing more comprehensive, community-based support systems for health and human services.**
- B. Require health and human services agencies to work with HHSC in supporting the development of more comprehensive local services, and to submit any proposals for new community initiatives to HHSC for review and approval to ensure consistency and guard against duplication.**
- C. Require HHSC to study the existing state/local authority model, used in the MHMR system, as a guide in developing an approach to assisting communities with improved service delivery.**
- D. Require HHSC to be the single point of contact for communities to work with to overcome institutional barriers to more comprehensive community support systems, particularly barriers tied to state agency policies and procedures.**
- E. Require HHSC to develop a system of blended funds from state health and human services agencies to allow local communities to customize services to fit the individual community needs.**

These recommendations would require HHSC to serve as the lead state agency and single contact in working in partnership with communities to strengthen local service delivery, even though multiple state agencies may be involved in funding local services. Each locality should be free to determine how much of a role to take in creating a more comprehensive approach to service delivery in their area. The role of HHSC should be to facilitate greater local involvement and autonomy, rather than being another one of the barriers to local flexibility.

Fiscal Impact

No new costs are anticipated to result from this recommendation.

ISSUE 15

Ensure Legislative Oversight of Changes to the Texas Health and Human Services System.

The changes in HHSC's oversight role and the expanded authority proposed in this report represent significant departures from current practices. The expanded authority of the Health and Human Services Commission to oversee key business operations would result in new challenges for HHS executives. Implementation of Sunset recommendations would require the Health and Human Services Commissioner, agency boards, and executive directors to define new roles in developing policy, planning services, and managing agency business functions.

These changes will require dedicated, strong leadership; ongoing opportunity for input; much information; and a way to refine the change process as it unfolds.

Recommendation

Change in Statute

A. Create a Legislative Oversight Committee on Health and Human Services to:

- monitor the integration and consolidation of HHS agency programs and HHSC's efforts to improve health and human services operational functions;
- recommend legislation to further consolidate health and human services agency functions where appropriate;
- recommend, as needed, a proposed schedule for HHS system changes;
- collect, analyze, and report information about the health and human services system; and
- ensure public input in the process to change the health and human services system.

B. Specify in statute the responsibilities of the Legislative Oversight Committee, including:

- overseeing the reorganization and transition of the HHS system,
- ensuring that laws are implemented consistent with legislative direction,
- seeking input from local constituents and advocacy groups,
- carrying out statewide health and human services needs surveys and forecasting,
- producing progress reports to be submitted to the Legislature and the Governor, and

- making recommendations and recommending legislation to subsequent Legislatures.

C. Specify the duties of the Health and Human Services Commission in support of the Legislative Oversight Committee.

D. Specify the duties of the health and human services agencies in support of the Legislative Oversight Committee.

E. Authorize the Legislative Oversight Committee for six years, with an expiration date of September 1, 2005.

The Sunset Commission concluded that legislative oversight would be critical to the successful implementation of these changes. Legislative oversight provides for the expression of legislative intent where laws may need interpretation. It would also provide a forum for ongoing public input and a mechanism to generate information necessary to guide continued improvements to health and human services. Public input from citizens, service providers, and advocacy groups would allow legislators to judge whether implementation of new legislation would negatively affect consumers or services.

Even with clear statutory direction in the past, HHS agencies and boards have been reluctant to coordinate various aspects of the health and human services system. The transition to a more integrated management structure would make agency directors more accountable to the HHSC Commissioner. Transitional legislative oversight would provide the opportunity to emphasize accountability and allow the Legislature to promote, set the tone for, and facilitate these critical relationships.

The Legislative Oversight Committee would be composed of 10 members. The Lieutenant Governor would appoint four members of the

Legislative oversight is critical to the success of reshaping the delivery of health and human services.

Senate and one public member, and the Speaker of the House of Representatives would appoint four members of the House and one public member.

The Health and Human Services Commission should provide staff and resources to support the Committee. Health and human services agencies should be required to assist the Committee by providing information pertaining to areas under the Committee's charge.

Fiscal Impact

This recommendation would have a fiscal impact to the State. The Committee would require staff resources and administrative support, to be provided by HHSC. In addition, the Committee's public hearing requirements would also result in some costs. HHSC, with budget transfer authority, should share these expenses between the HHS agencies on a pro-rata share basis. The amount of these costs could not be estimated for this report.

Long-Term Care Services Agency



Issue 1

Merge Long-Term Care Programs into a Single State Agency to Improve the Delivery of Services.

Five different state agencies are currently involved in delivering long-term care services to clients. As clients age, their service needs may change. Under the current system, these changing needs may require the individual to go through a new eligibility determination process to seek services from a different agency. The lack of a seamless continuum of care results in a discontinuation of services for some individuals while multiple administrative hurdles are crossed.

Program fragmentation at the state level has led to a lack of clear accountability and limited strategic planning, as well as confusion and multiple assessment processes for clients at the local level. Fragmentation often results in more dollars spent on administration that otherwise might be available for direct services. Many agencies perform similar services, such as assessment and case management, for the same clients.

Numerous studies and reports have cited problems with the long-term care service delivery structure including a lack of accountability for effective service delivery, fragmentation of services, and consumer confusion about how to access services. Many have considered the creation of a single agency responsible for the delivery of long-term care services as a solution to the fragmentation.

Recommendation

Change in Statute

- A. Create a Long-Term Care (LTC) agency through consolidation of the following related programs of the State's health and human services agencies.**

As shown in the chart, *Long-Term Care Programs To Be Merged*, programs from the Department of Human Services (DHS), Department on Aging (TDoA), Department of Health (TDH), and the Texas Rehabilitation Commission (TRC) would be merged into a single agency for the delivery of long-term care services. The programs to be transferred include both direct service programs and regulatory programs.

Long-Term Care Programs To Be Merged			
<p>DHS Programs Community Care for the Aged and Disabled (includes medicaid waiver programs)</p> <p>Nursing Facility Program</p> <p>Long-Term Care Regulatory</p>	<p>TDoA Programs All Older Americans Act funded programs except the Ombudsman program, which transfers to the Department of Protective and Regulatory Services</p> <p>Research and advocacy on aging issues will be handled by an independent Aging Policy Council</p>	<p>TDH Programs Chronically Ill and Disabled Children (includes case management)</p> <p>Medically Dependent Children's Waiver Program</p> <p>Home and Community Support Services Agencies Regulation</p>	<p>TRC Programs Personal Attendant Services</p> <p>Blind/Deaf/Multiple Disability Waiver Program</p>

An independent Aging Policy Council would advise the Long-Term Care agency on aging issues.

B. Maintain the Department on Aging as an independent Aging Policy Council to conduct research and long-range planning in the areas of long-term care, community policy issues, and other issues that impact the aging population.

- **Specify that the Aging Policy Council is administratively attached to the LTC agency with the authority to hire staff.**
- **The Council would set the priorities for distribution of Older American Act funds.**
- **The Council would provide expertise and advise the LTC agency on all issues affecting the elderly and work with the LTC agency and other state agencies on ways to meet the long-term needs of the State's aging population.**

C. Require the LTC agency to maintain the current system of Area Agencies on Aging for service delivery, where appropriate.

D. Create a permanent working group of representatives from the Long-Term Care agency and the Texas Department of Mental Health and Mental Retardation to ensure coordination of services and planning for mental retardation services between agencies, where appropriate.

E. Require the LTC agency to study the feasibility of designing and implementing a subacute care pilot project.

These changes would merge programs from four different agencies into one agency that would administer a majority of the State's long-term care services programs for the elderly, disabled, and children, including programs that regulate long-term care facilities and professionals. During a transition period, the new agency could contract with

the Department of Human Services for administrative support. A six-member board composed of public members would govern the agency and the board would have the authority to appoint advisory committees as necessary to address special areas such as children's issues.

Under this recommendation, TDoA's Board on Aging would be converted to an independent Aging Policy Council, administratively attached to the LTC agency. The Council would focus on conducting research and advocacy efforts in areas of interest to all aging Texans. In particular, the Council would focus on defining aging issues and setting priorities for distribution funds received under the Older Americans Act (OAA). Actual services provided under the OAA would be delivered by the LTC agency. The Aging Council would also be a resource for other state agencies that serve the elderly, such as the Department of Mental Health and Mental Retardation.

The new agency would be required to maintain separate intake and assessment processes for children and adults to accommodate the needs of the wide variety of individuals receiving services. Services would be delivered regionally within the uniform health and human services regions, with appropriate services still provided through the Area Agencies on Aging (AAAs). Administrative support services, such as Medicaid eligibility determination, would still be available to support the LTC agency through interagency agreements.

The issue of subacute care and its relationship to acute and long-term care in the continuum of care for Medicaid clients is complex. More data is needed from which to develop reliable estimates of either potential cost savings or potential impact on the quality of care. As a result, a study of the feasibility of a subacute care pilot project would allow the State to test whether subacute care could actually save

money and at what level, without compromising the quality of client care. The LTC agency should work closely with the Texas Department of Health and the Health and Human Services Commission to evaluate the impact of subacute care on Medicaid.

Fiscal Impact

Creation of a Long-Term Care agency would have an initial cost to the State during the transitional phase but would ultimately result

in savings through a reduction in program duplication and administrative efficiencies. These amounts cannot be estimated at this time. Actual program costs for each of the transferred programs can be estimated but the associated indirect administrative costs are undefined.

The new agency would have administrative costs associated with executive staff, information resources, and support services. Many of these costs would be offset through interagency agreements with existing agencies, with transitional administrated support provided by DHS. Also, the conversion of the Department of Aging to a Policy Council would have some savings attributed to administrative attachment to the LTC agency.

Initial costs to create a LTC agency will give way to savings that can fund more services.

Texas Department on Aging



Key Agency Duties

- Administer the federal Older Americans Act (OAA) and serve as the designated State Unit on Aging.
- Assist the elderly to remain independent through advocacy efforts, planning, and policy initiatives.
- Create and support a local aging network through the distribution of OAA and other funds.

Appropriation for FY 1999: \$57.9 million

Number of Employees for FY 1999: 35

Statutory Reference: Human Resources Code, Chapter 101

Board Members (9)

Jan Patterson, Chair (Dallas)
Elena Bastida-Gonzalez (Edinburg)
Nancy S. Bohman (San Antonio)
Dr. Jack Burton (Cleburne)
Miriam A. Burton (Montgomery)
Thomas E. Oliver (Baytown)
Dan Roberts (Fort Worth)
William T. Shaner (Midland)
Holly H. Williamson (Houston)

Agency Head: Mary Sapp (512) 424-6840

Recommendation

Merge TDoA into the Long-Term Care Agency
Please see previous issue on Long-Term Care 25

Texas Commission for the Blind



Key Agency Duties

- Provides a variety of services to persons with visual impairments to ensure they can actively and independently participate in society.
- Operates the Criss Cole Rehabilitation Center, a 24-hour a day residential program that provides vocational and rehabilitation skills to blind clients.
- Administers the Business Enterprises Program, a federally-authorized program that provides management opportunities in the food services industry for persons who are legally blind.

Appropriation for FY 1999: \$42.4 million

Number of Employees for FY 1999: 610.5

Statutory Reference: Human Resources Code, Chapter 91

Board Members (9)

C. Robert Keeney, Jr., Chair (Houston)
Olivia Sandoval, Vice Chair (San Antonio)
James L. Caldwell, Ph.D. (Austin)
Frank Mullican (Lubbock)
Don W. Oates (Nacogdoches)
Olivia Chavez Schonberger (El Paso)
Beverly A. Stiles (Freer)
John M. Turner (Hillcrest)
Vacant

Agency Head: Terrell I. Murphy, Executive Director, (512) 459-2600.

Recommendations

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2. Improve TCB Contract Performance Measures and Monitoring 34
3. Ensure Equipment Contracts Cover Maintenance and Client Training ... 35
4. Develop an Improved Rate-Setting Methodology 35
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6. Continue TCB for Eight Years 37

Issue 1

Develop Clearer Guidelines and Better Oversight of the Delivery of Services.

The Texas Commission for the Blind (TCB) provides a variety of services to persons with visual impairments. TCB has 117 counselors and 21 case coordinators who are responsible for working directly with clients through three programs — the Vocational Rehabilitation, Independent Living, and Children’s Programs. In addition, counselors can refer clients to the agency’s Business Enterprises Program, a food service industry program. These programs served more than 20,000 clients in fiscal year 1997, with total expenditures of \$38.5 million, or 93 percent of the agency’s budget.

TCB has not formalized in policy, or agency guidelines, benchmarks for service delivery. Currently, the agency uses informal benchmarks for service delivery. These benchmarks are not part of any policy or placed in program manuals. Not formalizing benchmarks makes assessing a client’s progress more difficult.

Recommendation

Change in Statute

- A. Require the Commission to develop, by rule, a framework for basic services delivered by TCB programs. This framework should relate to, at a minimum:**
- oversight and monitoring of service delivery,
 - guidance to counselors on service delivery procedures,
 - case management benchmarks for service delivery, and

- improved financial planning information.

- B. Require TCB to establish written procedures to provide increased guidance to counselors and staff. These procedures should include, at a minimum, methods to evaluate:**

- client progress,
- service delivery effectiveness, and
- counselor performance.

These recommendations would require the Commission to set clear guidelines for the agency’s service delivery system. Placing management practices in policy would eliminate reliance on “rules of thumb” to ensure that clients are making progress towards their goals. Establishing case management benchmarks would make it easier to assess how effective TCB programs are in addressing the needs of clients.

These recommendations do not require TCB to set time limits for providing services. Rather, counselors and case coordinators would be better able to determine if the needs of clients are being met within current time frames, and if changes are needed.

Management Action

- A. TCB should reassess the information documented in individual service plans to determine whether that information enables the agency to improve the management of service delivery. Individual service plans should include:**
- when client services are scheduled and actually delivered,
 - how services assisted the client in meeting their expected outcomes,
 - what each service cost and which party paid for the service, and
 - other information the Commission feels appropriate.

Client progress should not be measured by “rules of thumb.”

- B. The agency should consider adjusting case coordinator duties, including client caseloads, to allow more effective oversight of counselors' activities.**
- C. The agency should evaluate its case review forms and assess how these forms can be modified to better assess client outcomes, and be used more consistently by all TCB regions.**

These recommendations would help counselors provide services that are more effective in assisting clients towards successful outcomes, and help case coordinators devote more time to oversight of counselor performance.

Fiscal Impact

The requirements in these recommendations can be met with existing resources.

Issue 2

Improve TCB Contract Performance Measures and Monitoring.

TCB contracts for various services, such as vocational rehabilitation and independent living services in regions of the state where the agency does not have the staff to manage the caseload. In fiscal year 1997, TCB spent approximately \$2.1 million on contract services for clients.

Sunset staff found that TCB service contracts do not routinely contain clearly defined goals and measurable outcomes. These contracts need to include such provisions for contractors to better assist clients in achieving successful outcomes.

In addition, TCB cannot adequately monitor contractor service delivery performance because provisions relating to performance in contracts are not clearly linked to client outcomes.

Recommendation

Change in Statute

- A. Require TCB to include the following specific provisions in its service provider contracts:**
 - **clearly defined and measurable program performance standards that directly relate to services provided;**
 - **clearly defined sanctions or penalties for non-performance of any contractual obligations; and**
 - **clearly specified accounting, reporting, and auditing requirements applicable to funds received under the contract.**
- B. Require TCB to include the following in contract performance monitoring:**
 - **a risk assessment methodology to institute statewide monitoring of contract compliance of service providers, and**
 - **tools to evaluate contractors based on clearly defined and measurable program performance objectives.**

By strengthening agency outcome measures in service provider contracts, the agency would be able to hold contractors accountable for the best possible performance.

Fiscal Impact

TCB's spends about \$2.1 million on direct service contracts each year. Some savings should be achieved by improving performance-related provisions in service contracts and improving contract monitoring. However, that amount would vary depending on the number and amount of contracts used by TCB, and therefore cannot be estimated for this report.

Issue 3

Ensure Equipment Contracts Cover Maintenance and Client Training.

TCB contracts for providers of adaptive technology do not consistently contain provisions for maintenance and client training. For example, when a client placed in a job receives a piece of adaptive technology, such as a computer with voice and braille translation capabilities, the client often requires training to use the technology and function effectively at work.

Recommendation

Change in Statute

Require TCB to include client training and equipment maintenance in its contracts with suppliers of adaptive technology.

Fiscal Impact

This recommendation should be implemented with existing agency resources.

Issue 4

Develop an Improved Rate-Setting Methodology for Medical Services.

The agency's Maximum Affordable Payment Schedule (MAPS) sets the maximum amounts that the agency will pay for medical services.

Sunset staff found that no agency policies exist that document the methodology used to set or adopt its MAPS rates. In addition, the agency is often paying higher than standard rates for certain services. For

example, of the agency's 30 most frequently purchased medical and optometric services, which represent 95 percent of the agency's purchases of these services, the agency exceeds Medicare reimbursement for 18 procedures.

Recommendation

Change in Statute

A. Require the Commission to establish its rate-setting methodology for all medical procedures and treatments in agency rules.

B. Require the Commission, when adopting a rate schedule to:

- **compare the proposed rates to other cost-based rates for medical services, including Medicare and Medicaid;**
- **document why any rate must exceed the rates established by Medicare or Medicaid; and**
- **establish a schedule for the periodic re-evaluation of rates.**

The agency needs a formal method to set rates for medical services.

These recommendations would require TCB to develop and document a formal method for establishing medical and optometric rates that would ensure that rate-setters consider established Medicare and Medicaid rates, and not set any rates higher than these standard public rates without documenting the reason.

Fiscal Impact

These recommendations would result in an estimated savings to the agency of about \$352,000 per year, if the agency ensures that payments to providers do not exceed Medicare rates.

Issue 5

Maximize Medicaid Reimbursements and Improve Administration of the Client Co-payment Policy for Children’s Services.

Targeted Case Management (TCM) services assist the child and family in accessing medical, social, educational, vocational and other appropriate services. These services help blind or visually impaired children reach and maintain an optimum level of functioning in the community.

- **TCB does not maximize opportunities to confirm Medicaid eligibility.** A TCB internal audit report indicated that counselors had not been checking all potential clients for Medicaid eligibility. By not consistently checking for Medicaid eligibility, counselors are missing opportunities to ensure Medicaid reimbursements. However, the agency has not provided consistent guidance to ensure effective staff action to maximize Medicaid reimbursements.

TCB policy also states that families who are not eligible for Medicaid and have resources greater than 250 percent of the federal poverty level (\$2,845 per month for a family of three) will be billed for TCM on a sliding-fee scale based on income level. However, this policy is not consistently applied.

More consistent checks for Medicaid eligibility could increase billings.

Recommendation

Change in Statute

- A. Require TCB to verify the Medicaid eligibility of clients applying for Children’s Program services.**

- B. Require the Commission to determine the income level that would trigger the required eligibility determination. In verifying Medicaid eligibility, case-workers shall:**

- **access appropriate state or private Medicaid eligibility databases;**
- **record in the application for services if Medicaid eligibility was verified, the source of the verification, and the date of verification; and**
- **verify Medicaid eligibility for those clients required to apply for Medicaid 90 days after application for services.**

These changes would ensure that counselors consistently check for Medicaid eligibility to ensure Medicaid reimbursements are obtained for all eligible TCM services that caseworkers are providing.

Management Action

- A. Require TCB to provide guidance to caseworkers in determining the appropriate number of case management contacts for all children eligible for those services. At a minimum, TCB should consider establishing case management contact benchmarks.**
- B. TCB should improve the administration of its current co-payment policy to ensure all financially able families are being properly billed.**

Providing more consistent guidance to caseworkers regarding case management contacts would help TCB better ensure that the individual needs of children are met. Using a benchmark for case management contacts would help to provide more consistent service delivery, and help the agency assess caseworker performance. These recommendations would also help ensure that the agency is uniform in the application of its co-payment policy.

Fiscal Impact

These changes would enable TCB to increase Medicaid reimbursements for services the agency currently pays for with state funding, by approximately \$378,000 in additional federal dollars per year.

Fiscal Impact

If the Legislature continues the current functions of the Commission, its annual appropriation of about \$42.4 million for fiscal year 1999 would continue to be required for the operation of the agency.

Issue 6

Continue TCB for Eight Years.

The Commission for the Blind provides services that help persons who are blind or visually impaired function more independently in society. Because TCB provides such basic services, the Sunset Commission concluded that a need for the functions of TCB exists, and that it should be continued.

Recommendation

Change in Statute

Continue TCB with responsibilities for providing rehabilitation services for the blind and sight-impaired for eight years.

This recommendation would continue the Commission until September 1, 2007, to coincide with the Sunset review of other health and human services agencies.

Children’s Trust Fund of Texas Council



Key Agency Duties

- To promote and provide opportunities so that Texas children can grow to responsible and productive adulthood, free of threats to their dignity, physical safety, and emotional well-being.
- Provide grants to local communities to fund primary and secondary child abuse and neglect prevention programs.
- Provide grants to communities to fund public awareness campaigns.

Appropriation for FY 1999: \$3 million

Number of Employees for FY 1999: 7

Statutory Reference: Human Resources Code, Chapter 74

Board Members (9)

Anne Crews, Chair (Dallas)
Patricia Aguayo (El Paso)
J. Randolph Burton (Houston)
Thelma Sanders Clardy (Dallas)
Kathleen R. Ehlinger (Raymondville)
Ann D. Loudon (Fort Worth)
Sylvia Martinez-Flores, (Lubbock)
Juan Parra, M.D., MPH (San Antonio)
Sederick E. Susberry (Houston)

Agency Head: Janie Fields, Executive Director, (512) 303-5061

Recommendations

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2. Allow Communities Greater Flexibility to Improve Local Services 45

Issue 1

Continue the Children's Trust Fund for Eight Years and Increase Coordination with the Health and Human Services Commission.

The Legislature created the Children's Trust Fund (CTF) in 1985 in response to concern about the growing rate of child abuse and neglect. The prevention of child abuse continues to be a very important responsibility of state government as incidences of child abuse continues to rise. The State should continue the operations of the Children's Trust Fund.

CTF was not originally included as one of the agencies under the umbrella of the Health and Human Services Commission (HHSC). CTF needs to work closely with HHSC as the agency seeks to maximize funding sources, a basic responsibility of HHSC.

Recommendation

Change in Statute

A. Continue CTF for eight years.

With a Sunset date of 2007, CTF will remain in the same review cycle as all other health and human services agencies.

B. Designate CTF as a health and human services agency.

Agencies are designated in the Health and Human Services Commission statute as health and human services agencies to facilitate coordinated budgeting and planning for the delivery of health and human services. This change would include CTF under the HHSC umbrella and facilitate coordination of resource allocation, strategic planning, and policy development between CTF and all other health and human services agencies.

Fiscal Impact

If the Legislature continues the current functions of CTF, using the existing organizational structure, the Council's annual appropriation of approximately \$3 million in fiscal year 1999 would continue to be required for the operation of the agency and the funding of local child abuse prevention programs.

CTF should be a formal part of the HHSC umbrella.

Issue 2

Allow Communities Greater Flexibility to Improve Local Services.

CTF created Family PRIDE Councils to foster communication between CTF and local communities to direct grant dollars to the most needed areas of the community. Communities are required to develop a Family PRIDE Council before applying for CTF grant money. However, in some communities other organizations already function as the central child abuse prevention group in the community.

Management Action

A. CTF should allow CTF-funded communities the *option* of combining the Family PRIDE Councils with the local Child Welfare Boards, or another entity that functions as a community leader on child abuse and neglect prevention.

Communication between state agencies and the communities they serve is essential to ensure that community needs are being met. However, in many communities, a variety of organizations already exist, such as Child Welfare Boards, that could be used to serve this purpose. CTF policies should not prevent other organizations from coordinating community efforts.

Communities should have flexibility when organizing to receive CTF funds.

B. CTF should develop performance measures for the organization selected to carry out CTF's community role, to determine the impact of its activities.

Presently, the performance of the Family PRIDE Councils and the programs funded by CTF is not being measured or reported. The lack of information on the impact of CTF funded initiatives on the communities they serve prevents the agency and the State from making fully informed decisions on the best use of child abuse prevention dollars.

Fiscal Impact

This recommendation should lead to a better use of local resources, both in dollars and in volunteer hours, although an amount cannot be estimated. No additional state dollars would be required.

Texas Commission for the Deaf and Hard of Hearing



Key Agency Duties

- Contracts for a variety of services for persons who are deaf or have hearing impairments to ensure they can actively and independently participate in society.
- Licenses the State's 1,326 interpreters for the deaf to ensure persons who are deaf or hard of hearing can communicate with the hearing community.

Appropriation for FY 1999: \$1.2 million

Number of Employees for FY 1999: 9

Statutory Reference: Human Resources Code, Chapter 81

Board Members (9)

Eva D. Williams, Acting Chair (El Lago)
Robin Riccardi, Secretary (Shallowater)
Douglas Bush (Houston)
Jean Matney (Fort Worth)
Linda Thune (Austin)
Benna Timperlake (Corpus Christi)
Three vacancies

Agency Head: David Myers, Executive Director, (512) 451-8494

Recommendations

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3. Require Clear Policy, Tools, and Schedule for Contract Monitoring	50
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Issue 1

Direct the Commission to Negotiate Best Value for Interpreter Services.

One of the primary goals of the Texas Commission for the Deaf and Hard of Hearing is to help provide communication access for the more than 500,000 Texans with hearing disabilities. The agency accomplishes this task through contracts with 23 regional Councils for the Deaf that, among other activities, provide interpreter services to the agency's clients. Councils employ and contract with individual interpreters to provide those services. Clients generally receive the interpretation service free of charge.

The Commission does not have a fee schedule for payment to interpreters as required by statute, but instead has established a maximum hourly rate to pay for interpreter services. The maximum price adopted by the agency has become the standard price charged by the agency's contractors, regardless of the level of service provided. A review of regional Council invoices to the agency showed that Councils are routinely billing the Commission the maximum rate established in rule, \$30 per hour, despite the interpreter's level of skill. The Commission routinely pays the maximum charge, as billed by the regional Councils. As a result, the maximum rate has become the standard price charged for services.

Recommendation

Change in Statute

Remove the provision requiring the Commission to establish a schedule regulating the cost of interpreter services.

Removing this provision would allow the agency to base payment for interpreter services on the level of service provided by

its Councils. Removing the provision would also eliminate a barrier that prevents the agency from obtaining the best value for interpreter services.

Management Action

- A. Repeal the Commission's rule establishing a maximum hourly rate for interpreter services.**
- B. Include interpreter fees in contracts when negotiating with Councils for interpreter services.**

These changes would leave the agency free to negotiate payment rates for interpreter services provided by its Councils. The agency should include in its Council contracts the specific rate the Councils would be paid for interpreter services. The rate should be based on hourly rates of payment or annual salaries of staff interpreters, and should include consideration of interpreter skill level. The rates should also include an easily identifiable and appropriate amount to cover the overhead of the Councils to provide the service.

Fiscal Impact

These recommendations should result in savings to the State. These savings would result from the agency no longer paying the maximum amount for interpreter services each time an interpreter is used. However, the amount of savings would depend on the number and skill level of interpreters used by the Councils so no specific estimate could be calculated. Any savings would be available to purchase additional interpreter services.

Tie rates for interpreters to their skill level.

Repeal the maximum hourly rate for interpreter services.

Issue 2

Expand the Commission's Tri-lingual Interpretation Authority.

Tri-lingual interpretation refers to interpretation between Spanish, English and American Sign Language. Many Texans who are deaf

understand only Spanish and sign language. For these people to interact with English-speaking people, a tri-lingual interpreter is needed. Currently, the Commission makes use of a tri-lingual task force designed to advise the Commission on tri-lingual issues.

Recommendation

Change in Statute

- A. Statutorily authorize the Commission to develop guidelines regarding tri-lingual interpreters.**
- B. Require the Commission to provide training opportunities specifically designed to address issues of tri-lingual communication.**

These recommendations would give the Commission statutory authority to address the qualifications and training of tri-lingual interpreters. The taskforce should work with interpreter training programs to increase the number of programs designed to train Spanish and English-speaking interpreters, ensure the curriculum is adequate, increase participation in these programs, and maximize the level of training for the interpreters.

Fiscal Impact

Establishing guidelines for tri-lingual interpretation would not require any additional resources by the Commission. Establishing new training programs could result in additional costs, but those costs could be offset through cost-recovery fees charged to persons undergoing that training.

Issue 3

Require Clear Policy, Tools, and Schedule for Contract Monitoring.

In fiscal year 1997, the Commission's direct service contract payments to the 23 regional Councils for the Deaf totaled \$483,446, more than 35 percent of the agency's budget. Through the Councils, the agency funds services such as interpreter services, the Senior Citizens Program, and the Information and Referral Program.

In a July 1997 report, the State Auditor's Office (SAO) identified a need for the agency to "establish a formal audit plan to provide oversight of the Councils." While the agency has worked with the SAO and the Health and Human Services Commission to develop a risk-based system for determining how often and when to monitor contractors, no formal policies have been developed to date.

Recommendation

Management Action

- A. Require the agency to develop, in rules, a risk-based approach for contract monitoring.**
- B. The agency should develop, by January 1, 2000:**
 - **contract auditing tools that are linked to contract provisions, and**
 - **a schedule for conducting on-site monitoring visits that is based on a risk-assessment model.**

These changes should ensure the Commission develops clear policies, tools, and a schedule for improved monitoring.

Fiscal Impact

Improved contractor oversight and development of formal contract monitoring policies should result in a positive fiscal impact to the State, and an improved level of service for clients. However, those savings will depend on the number of contracts and types

Use risk to determine how often and when to monitor contractors.

of services for which the agency contracts. As a result, Sunset staff could not determine a specific amount of savings for this report.

Issue 4

Continue the Commission for Eight Years.

The Texas Commission for the Deaf and Hard of Hearing provides services that help persons who are deaf and hard of hearing participate more easily in society. Because the Commission provides such basic services, the Sunset Commission concluded that a need for the functions of the Commission exists, and that therefore the Commission should be continued.

Recommendation

Change in Statute

Continue the Texas Commission for the Deaf and Hard of Hearing for Eight Years.

This recommendation would continue the Commission until September 1, 2007, to coincide with the Sunset review of other health and human services agencies.

Fiscal Impact

If the Legislature continues the current functions of the Commission, its annual appropriation of about \$1.2 million in fiscal year 1999 would continue to be required for the operation of the agency.

Texas Planning Council for Developmental Disabilities



Key Agency Duties

- Serves as an advocate for individuals with developmental disabilities.
- Develops a state plan for use of federal funds available under the federal Developmental Disabilities Act.
- Initiates activities through competitive grants to state and local organizations throughout the state.
- Sponsors training for individuals with disabilities and their families.

Appropriation for FY 1999: \$3.9 million

Number of Employees for FY 1999: 14

Statutory Reference: Human Resources Code, Chapter 112, Subchapter B

Board Members (30)

- | | |
|--|--|
| Jan R. Newsom, Chair (Dallas) | Linda Vancil (Bryan) |
| Joe Colunga, III, Vice-Chair (Brownsville) | James Comstock-Galagan, Advocacy, Inc. |
| David Benson (Houston) | Ann Horn, Texas Commission for the Deaf and Hard of Hearing |
| Mary M. Durheim (McAllen) | D.J. Johnson, Texas Department of Human Services |
| Raul Garza, Jr., M.D. (San Benito) | Paula Johnson, Texas Department on Aging |
| Genevieve Hearon (Austin) | Gene Lenz, Texas Education Agency |
| J. Robert Hester, Jr. (Arlington) | Nansi Morris, Texas Commission for the Blind |
| Beth Holt (Marshall) | John Scott, Texas Department of Health |
| Jeri W. Houchins (Round Rock) | Penny Seay, University Affiliated Program |
| Theda Hoyt (Cypress) | JoEllen Simmons, Texas Rehabilitation Commission |
| Gary Kay (Brownwood) | Barry Waller, Texas Department of Mental Health and Mental Retardation |
| Amy Baxter Ley (Eules) | Geri Willems, Texas Health and Human Services Commission |
| Vickie Mitchell (Huntsville) | |
| Linda H. Parrish, Ph.D. (College Station) | |
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| Johnny Sauseda (Victoria) | |
| Charley Tiggs (Lubbock) | |

Agency Head: Roger Webb, Executive Director, (512) 424-4081

Recommendation

1. Continue the Council for 12 Years and Clarify its Relationship to the Texas Rehabilitation Commission 55

Issue 1

Continue the Council for 12 Years and Clarify its Relationship to the Texas Rehabilitation Commission.

The Texas Planning Council for Developmental Disabilities is funded through the federal Developmental Disabilities Act. The Governor, required by this Act to designate an agency to provide administrative support and fiscal management services, has designated the Texas Rehabilitation Commission (TRC) to support the Council.

The Council's statutory language does not reflect substantive changes made in federal law that allow the Council to operate with greater autonomy. Failure to clarify the independent nature of the Council in statute has caused problems due to its current attachment to TRC, a service delivery agency. TRC is required through state statute to be involved in the awarding of grants and the development of the state plan, which gives it the ability to impose its own philosophy and priorities on Council activities and creates the appearance of a conflict of interest.

Recommendation

Change in Statute

Continue the Texas Planning Council for Developmental Disabilities for 12 years and update state statute to conform to changes in the federal law by:

- **clarifying the relationship between the Council and the designated state agency, and**
- **further defining the responsibilities of the Council.**

This change would clarify the roles and responsibilities of each entity. Statutory responsibilities of TRC, as the "designated state agency," should be limited to receiving, accounting for, and disbursing funds for the Council. Statute should specify the responsibilities of the Council to include approving and executing an annual budget, hiring and supervising an Executive Director and other employees as necessary, and providing grants to agencies, organizations or individuals to improve the way services are provided to persons with developmental disabilities.

The Council should have the degree of autonomy envisioned by federal law.

Fiscal Impact

If the Legislature continues the current functions of the Council, using the existing organizational structure, the Council's annual appropriation of approximately \$4 million in federal funds in fiscal year 1999 would continue to be required for the operation of the agency.

Texas Governor's Committee on People with Disabilities



Key Agency Duties

- Collects and disseminates information on disability-related issues.
- Promotes implementation of the federal Americans with Disabilities Act (ADA).
- Conducts long-range planning and makes policy recommendations to the Governor and the Legislature regarding education, employment, health, and independence of persons with disabilities.
- Supports a network of local volunteer committees that address issues such as parking, housing, and access in their local areas.
- Recognizes organizations, individuals, and employers who have made significant contributions to promoting opportunities for people with disabilities.

Appropriation for FY 1999: \$313,800

Number of Employees for FY 1999: 6

Statutory Reference: Human Resources Code, Chapter 115

Committee Members (16)

James Caldwell, Ph.D., Chairman (Austin)

Mary Ann Board (Bellaire)

Larry Chevallier (Joinerville)

Victoria Christman (Dallas)

Douglas Grady, Jr. (Fort Worth)

Peter Grojean (San Antonio)

Thomas Justis (Grapevine)

Kym King (Houston)

Debbie Morrill (San Antonio)

James Olson (Houston)

Shirley Smith Pacetti (Austin)

Judy Scott (Dallas)

Isa Covio,

Texas Commission for the Blind

Roy Kimble,

Texas Workforce Commission

Rose Aird Minette,

Texas Commission for the Deaf and

Hard of Hearing

Jo Ellen Simmons,

Texas Rehabilitation Commission

Agency Head: Pat Pound, Executive Director, (512) 463-5742

Recommendation

1. Continue the Committee for 12 Years and Clarify its Focus 59

Issue 1

Continue the Committee for 12 Years and Clarify its Focus.

The Governor's Committee on People with Disabilities was created in 1949 to focus on the employment needs of persons with disabilities. Over time, the Committee's scope has expanded to include the promotion of rights and opportunities for people with disabilities in all areas of life.

- **The Committee provides a needed service to the State.** Although many laws and policies have been established to protect and promote the rights of persons with disabilities, gaps continue to exist between persons with disabilities and persons without. Approximately one in five adults with disabilities have not completed high school. Other barriers exist in employment, housing, transportation, recreation, and parking. The Governor's Committee broadly examines the policies established in many areas and works to promote full participation for all persons with disabilities.
- **The Committee's current scope of responsibilities may prevent it from maximizing its efforts to further opportunities for persons with disabilities.** The Committee's statute does not detail the purpose of the Committee's activities, nor does it reflect the role the Committee serves as a central source of information and education.
- **The statute lists 13 functions, several of which extend beyond what the Committee can realistically accomplish given its current and anticipated future resources.** These functions include responsibilities that are also assigned to other state agencies or are comparable to the functions of other agencies. Some functions include redun-

dant requirements that are an inefficient use of the Committee's efforts.

Recommendation

Change in Statute

- A. Continue the Governor's Committee on People with Disabilities for 12 years.**
- B. Clarify that the Governor's Committee shall:**
 - produce a biennial report that includes a disability vision, long-range goals, and short-term recommendations for increased participation of persons with disabilities; provide the report to the Governor and the Legislature; and promote the implementation of these goals and recommendations;
 - evaluate the State's compliance with the ADA and other statutes relating to rights and opportunities for persons with disabilities;
 - collect and evaluate data on employment of persons with disabilities by state agencies;
 - serve as a central source of information and education on the abilities, rights, problems, and needs, of persons with disabilities and issue reports as necessary;
 - serve as a liaison to the President's Committee on the Employment of People with Disabilities and other entities involved in activities and concerns that affect persons with disabilities; and

Focusing the Committee's duties will allow it to be a more valuable resource.

- **provide information to and advise the Governor and the Governor's staff on matters relating to the full participation of persons with disabilities.**
- C. **Remove the Committee's responsibilities to:**
- **promote the development of efficient and effective coordination of services, and**
 - **promote a demographic survey of persons with disabilities and the use of its results in establishing service priorities.**

Consolidating the multiple reporting requirements into one document is a more efficient use of the Committee's funding and allows the entities receiving the report to focus

their attention on one document. Removing requirements that are beyond the Committee's capabilities and are similar to duties performed by other agencies is also a more efficient use of resources and will eliminate unreasonable expectations. Other clarifications will more accurately depict the expanded role and mission of the Committee.

Fiscal Impact

If the Legislature continues the Governor's Committee, with the existing organizational structure, the Committee's annual appropriation of approximately \$300,000 in fiscal year 1999 would continue to be required for the Committee's operation.

Texas Office for the Prevention of Developmental Disabilities



Key Agency Duties

- Coordinates disability and injury prevention efforts of state and local agencies, as well as private organizations.
- Raises public awareness on the preventability of many disabilities.
- Monitors and assesses prevention programs, and promotes innovative disability prevention.

Appropriation for FY 1999: \$0

(The Texas Department of Health provides \$119,000 to support the Office through a memorandum of understanding which expires on August 31, 1999.)

Number of Employees for FY 1999: 2

Statutory Reference: Human Resources Code, Chapter 112C

Commission Members (9)

Representative Bill Carter, Chair (Ft. Worth)
Senator Judith Zaffirini (Laredo)
Dr. Frank R. Brown III (Dallas)
Billie Lindley McMahon (Cleveland)
J.C. Montgomery, Jr. (Dallas)
Dr. Theresa Mulloy (Stephenville)
Dr. Jonathan Clark Race (Austin)
Eileen Curry Resnik (Addison)
Vacant (1)

Agency Head: Larry Camp, Executive Director, (512) 424-6042

Recommendation

1. Continue the Texas Office for the Prevention of Developmental Disabilities for Eight Years 63

Issue 1

Continue the Texas Office for the Prevention of Developmental Disabilities for Eight Years.

The Texas Office for the Prevention of Developmental Disabilities was created in 1989 to lead a comprehensive, coordinated effort to minimize the human and economic losses caused by preventable disabilities. The agency is governed by an executive committee of experts in the field of children's health and developmental disabilities. Although the office has a broad mandate, it has used its limited resources mainly to promote the use of bicycle helmets to prevent head and spinal cord injuries and to promote increased awareness of Fetal Alcohol Syndrome.

Recommendation

Change in Statute

Continue the Texas Office for the Prevention of Developmental Disabilities for Eight Years.

This recommendation would continue the Office until September 1, 2007, to coincide with the Sunset review of other health and human services agencies.

Fiscal Impact

This recommendation would have no fiscal impact to the State because the Texas Office for the Prevention of Developmental Disabilities receives no state funding.

Interagency Council on Early Childhood Intervention



Key Agency Duties

- Plans and implements early childhood intervention services for children who have, or are at risk of having, a developmental delay and are below the age of three.

Appropriation for FY 1999: \$65.8 million

Number of Employees for FY 1999: 66

Statutory Reference: Human Resources Code, Chapter 73

Board Members (9)

Claudette Wilkinson Bryant, Chair (Dallas)

Timothy James Flannery (Seabrook)

Bess Althaus Graham (Austin)

Tanya Huerta (San Antonio)

Connie L. Hughes (Idalou)

Susan C. Mengden-Ellis (San Antonio)

Patrick J. Oliver III (Webster)

Dimas Vasques Jr. (El Paso)

Gene Lenz, Texas Education Agency

Agency Head: Mary Elder, Executive Director, (800) 250-2246

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Issue 1

Ensure ECI's Provider Selection and Payments Processes Achieve the Best Value for the State.

ECI purchases early intervention services from 70 local organizations such as school districts and MHMR community centers. The ECI method of purchasing services is most like a grant-making process. Contractors submit an application for funding that identifies the number of children the provider will serve at any one time of the year, staff employed by the contractor, and other information regarding the costs to deliver services.

Once ECI reviews and approves an application, the amount of the grant is determined and ECI enters into a contract for services. ECI pays contractors monthly based on the program capacity identified in their application. For fiscal year 1997, ECI contractors received an average grant amount of approximately \$600,000.

- **ECI's method of purchasing early intervention services does not ensure that the State receives best value for its dollars.** Grants are based on past funding patterns; service providers do not compete, either on performance or price, for ECI funding. Provider performance and costs are monitored during the grant period, but monitoring only holds providers accountable to the grant requirements. ECI monitoring and grant requirements provide no incentives for providers to reduce costs or to serve more children.
- **ECI does not pay contractors based on the units of services actually provided to clients.** ECI pays contractors a monthly grant amount without regard to the services delivered or the number of clients actually enrolled in the program.

ECI does not maintain records of the types or units of services that clients actually receive.

- **As ECI begins making modifications to its provider reimbursement process, administrative support systems may be needed that exists at other agencies such as TRC.** TRC counselors, like ECI providers, are responsible for conducting client assessments and developing a service plan. Once services are authorized in a plan of care, payment is electronically authorized once services are delivered.

Recommendation

Change in Statute

- A. Require ECI to select providers and renew their contracts on a best value basis. In determining best value, ECI must consider, at a minimum:**
- past performance,
 - quality of services,
 - cost,
 - ability of the bidder to maximize local and federal income,
 - ability to comply with state and federal program requirements, and
 - the availability of the contractor to deliver required services.

These changes should immediately strengthen ECI's procurement process to focus on purchasing quality services at a reasonable price. Contracts should be based on performance and failure to perform should be considered each time that services are procured and contracts renewed.

- B. Require that ECI's purchases of early intervention services promote competition whenever possible.**

Base contracts more on the cost of services provided.

*Only
reimburse the
costs of
authorized
services.*

EI services are available from a variety of organizations and licensed professionals. ECI's purchase of services should encourage and support competitive proposals for flexible and innovative service delivery networks that help to ensure that ECI funding is spent efficiently to reach the greatest number of children.

C. Require ECI to administratively integrate business functions with TRC, including purchasing of services, where appropriate.

EI could benefit from using TRC's case management and client services purchasing system. ECI providers could access TRC's system through regional and local offices and use the system to document service delivery plans and pay providers for services delivered. In some cases, both agencies may use many of the same providers.

Management Action

- A. ECI should ensure providers are only reimbursed for the costs of providing services that are accurately and appropriately authorized through an Individual Family Service Plan (IFSP).**
- B. ECI should not pay contractors for services that do not meet program requirements, including preparation of an incomplete IFSP.**
- C. ECI should ensure providers pay Medicaid rates for subcontracted services, where appropriate.**

The most important service that ECI purchases from a contractor is the preparation of an IFSP. An inaccurate or incomplete IFSP may lead to unjustified, excessive costs and may jeopardize the well being of young children who need ECI services. ECI should ensure that it does not pay for services that do not meet basic federal and state requirements.

Fiscal Impact

Purchasing services on the basis of a competitive or median-based fee schedule, as other state programs do, and limiting reimbursements to Medicaid rates would immediately reduce the amounts paid to inefficient providers. If every ECI contractor was held to the median statewide cost per FTE child of \$6,500, then \$4.2 million would be available to provide services to an additional 650 children. Additional savings would result from ensuring that contractors are paid only for services actually delivered rather than on a grant basis.

The recommendation to contract for administrative services would have a positive fiscal impact to the State since ECI would not be required to develop its own administrative support systems. The exact amount cannot be estimated.

Issue 2

Maximize Funding Sources for ECI Services.

Texas funds early intervention services primarily through the federal Individuals with Disabilities Education Act (IDEA) grant. Nationwide, individual state ECI programs can be funded by more than 45 separate sources. Federal funds often do not cover the entire cost of direct intervention services, so states again use state funds, federal funds from other sources, and local funds to meet the shortfall.

- **ECI has not fully maximized other available funding sources.** State law requires ECI to maximize federal funds in the most advantageous proportions possible. Nevertheless, IDEA funding comprises 94 percent of the agency's federal funding.

- **ECI contractors have had limited success seeking Medicaid reimbursement for services provided.** ECI has not ensured that local programs are successful in claiming Medicaid funds.

Recommendation

Change in Statute

Require ECI and the Health and Human Services Commission (HHSC) to review the ECI funding system to maximize federal, private, and local funding.

By reviewing the current service delivery system to allow for maximization of funding sources other than IDEA and increasing Medicaid reimbursements, ECI can access more funding to provide more services to children. Increased funding could also be used to increase services to at-risk children and improve Child Find efforts.

Fiscal Impact

This recommendation would establish State funding as the payer of last resort for federal maintenance of effort requirements for ECI services. If ECI required Medicaid to fund services for clients who are Medicaid eligible, the State could realize an additional \$8 million in reimbursements to fund ECI services.

Issue 3

Improve ECI's Service Delivery System.

ECI delivers services through a network of providers that contract to provide the full array of services required by federal statute. Responsibilities identified in federal and state statute, such as child find, public awareness,

and local interagency coordination, are delegated to the providers with broad flexibility on how these objectives will be achieved.

- **Child Find activities have not effectively reached eligible children within at-risk populations.** Services are not targeted to reach at-risk populations or regions of the state with large at-risk populations. Providers have not maximized Child Find efforts by evaluating and prioritizing special groups of children and areas of the state known to have large populations of at-risk children.

Recommendation

Change in Statute

A. Require ECI to reassess its service delivery system to improve local providers' ability to meet current statutory objectives, including but not limited to:

- **increasing coordination with other agencies serving children with developmental delays, including coordination on policy issues impacting children with developmental delays over the age of three;**
- **improving Child Find among at-risk populations, including targeting efforts toward at-risk populations and regions of the state and monitoring providers on the success of targeted Child Find efforts; and**
- **assuming an active lead role in addressing issues such as the provision of respite care for children with developmental delays, including the development of incentives for providers to fund respite.**

B. Require ECI to report to the 77th Legislature on the achievements of its reassessment effort.

Find ways to target at-risk children for services.

While ECI's statute already directs the agency to meet the objectives discussed in this issue, the activities required in this recommendation make achievement of these objectives a priority within the agency. The intent of this recommendation is for the agency to actively assess its policies and make changes to meet statutory objectives.

Fiscal Impact

The requirements in this recommendation can be met with existing resources.

Issue 4

Improve Performance Monitoring of ECI Contractors.

ECI delivers intervention services through a statewide network of contractors who provide the full-array of intervention services. ECI conducted financial and program compliance reviews of about half of its providers in fiscal year 1997.

- **ECI's contract monitoring activities do not focus on determining if the services provided by the contractor meet client needs.** ECI policies require that each child's service plan contain client outcomes, but ECI's monitoring does not ensure that contractors actually provide units of service described in the service plans or that outcomes have been achieved.

Management Action

ECI should add outcome-based performance measures to its contract monitoring system and sanction providers who do not meet the performance objectives.

The agency should develop relevant service outcome definitions and expectations for all programs and activities under its jurisdiction. At a minimum, ECI should use its contracting

and performance monitoring process to establish quality standards for its services, ensure that providers actually deliver the service units identified in the family service plan, and evaluate whether the services achieved the desired goal or impact for the child and family.

Fiscal Impact

This recommendation would result in a positive fiscal impact for the State, however, the exact fiscal benefit cannot be determined.

Issue 5

Re-evaluate ECI's Policies on Natural Environments.

Federal law requires that state ECI services be delivered in the child's natural environment, such as their home or day care facility. In 1997, ECI began to implement natural environment policies based on this federal requirement.

Some parents and advocates have expressed concerns to the agency and the Legislature regarding the manner in which the natural environments policies have been implemented.

Management Action

Require the newly-appointed ECI Board to re-evaluate the agency's policies regarding natural environment, and re-adopt the resulting policies through administrative rulemaking.

ECI's board has recently undergone major changes with the appointments of eight new board members selected to represent families who have received or are receiving ECI services. A re-evaluation of the agency's natural environments policies by individuals representing the interests of ECI families

The ECI Board should revisit how services are provided in a natural environment.

should result in policies that meet the federal requirements as well as the need of the families.

Fiscal Impact

The requirements of this recommendation can be met with existing resources.

Issue 6

Improve Coordination Between ECI and the Department of Protective and Regulatory Services.

Children who have been victims of abuse and neglect may be at higher risk of developmental delay. A number of children in the PRS system are also served by local ECI providers. In addition, ECI service providers are in a unique position to detect abuse and neglect of children receiving services.

Recommendation

Change in Statute

Require PRS and ECI to develop policies to improve coordination when working with clients vulnerable to abuse and neglect.

Past problems have resulted from confusion over each agency's role when dealing with children who are involved with multiple agencies. The development of new policies should eliminate confusion over each agency's responsibilities and result in better service to some of the State's most vulnerable children.

Fiscal Impact

The requirements of this recommendation can be met with existing resources.

Issue 7

Continue ECI for Eight Years.

Texas has a continuing need for the services provided by ECI. The Council's main functions are critical to the State's goal of reducing dependence on public assistance through an efficient and effective system that promotes the health, responsibility, and self-sufficiency of individuals and families.

Recommendation

Change in Statute

Continue ECI for eight years.

A Sunset date of 2007 would continue to include ECI in the same review cycle as all other health and human service agencies.

Fiscal Impact

If the Legislature continues the current functions of ECI, using the existing organizational structure, the agency's annual appropriation of approximately \$65.8 million in fiscal year 1999 would continue to be required for the operation of the agency.

ECI and PRS should work together to protect certain vulnerable clients.

Texas Department of Health



Key Agency Duties

- Administers a key portion of the State's Medicaid program.
- Licenses various health professionals and facilities, and regulates food processing/manufacturing.
- Provides services to prevent and control disease throughout the state.
- Administers direct health care services such as immunizations, family planning, nutrition, and other services.
- Operates a state testing laboratory for newborn screening, tuberculosis diagnosis, and disease identification.
- Collects birth, death and certain other state health records.

Appropriation for FY 1999: \$6.4 billion

Number of Employees Authorized FY 1999: 5,793

Statutory Reference: Health and Safety Code, Chapter 11

Board Members (6)

Walter D. Wilkerson, Jr., M.D., Chair (Conroe)

Mary E. Ceverha, M.P.A., Vice Chair (Dallas)

Mario Anzaldua, M.D. (Mission)

J.C. Chambers (Lubbock)

David Collins, P.E. (Houston)

Ruth F. Stewart, M.S., R.N.C. (San Antonio)

Agency Head: William R. Archer, M.D., Commissioner of Health, (512) 458-7375

Recommendations

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Texas Department of Health



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Issue 1

Require TDH to Develop a Comprehensive Analysis of its Organizational Structure and Operations.

TDH is responsible for all matters relating to the physical health of the State's population. During fiscal year 1997, the Department regulated more than 118,000 professionals and 129,000 facilities. The agency also has programs that, through education and other efforts, are designed to promote the health of all Texans. These programs include efforts to prevent osteoporosis, smoking, and prenatal defects. In addition, TDH provides medical services for low-income Texans through 37 direct health care programs in which clients receive one-on-one health care from practitioners such as doctors, nurses, and nutritionists. Direct health care services account for \$6 billion in federal and state funds. TDH also works with the 149 local health departments throughout the state.

- **Despite over 50 mandated individual planning documents, TDH has no coordinated and integrated approach to improve the health of Texas citizens.** TDH currently produces over 50 mandated plans. Each of these plans is limited in scope since they are designed for individual programs within TDH, or required by the federal government or state law. However, none of the 50-plus plans developed by TDH addresses how the agency will comprehensively carry out its programs in an integrated manner.
- **The lack of cohesive health planning results in program and service overlap, and a system that is difficult to navigate for both service providers and recipients.** Overlapping programs and duplicate administrative functions hinder programmatic integration and decrease agency efficiency. TDH has de-

veloped numerous public health programs that overlap in scope. TDH has not maximized coordination among these programs to ensure clients receive all the benefits for which they are eligible.

Recommendation

Change in Statute

A. **Require the Board of Health to develop and implement a comprehensive blueprint for services to include at least the following elements:**

- **a statement of the mission, aim, and purpose of the agency's activities and how they relate to one another;**
- **a proposal of how programs, including data-related services, can be integrated to minimize overlap, increase administrative efficiencies, and simplify accessibility;**
- **a determination of whether each area of data collected by TDH is needed, and if so, whether it is collected, analyzed, and disseminated efficiently;**
- **an assessment of existing TDH services that evaluates the future need for those individual services;**
- **a method for including local and stakeholder input in identifying and assessing the health-related needs of the State and how programs and data services can be better coordinated and integrated;**
- **a comprehensive inventory of health-related information resources meeting criteria developed by the Department regarding usefulness and applicability to local health departments, TDH contrac-**

None of TDH's 50-plus plans address how the agency as a whole should carry out its mission.

tors, and health-related not-for-profit entities, private businesses, and community groups;

- an action plan to coordinate with federal, state, local, and private programs that provide services similar to those provided by TDH;
 - a listing of state-mandated planning instruments developed by the Department along with a recommendation to remove the statutory requirements for those that are obsolete or redundant; and
 - an assessment of the effectiveness of previous blueprints and why certain items within the blueprint have changed or been removed over time.
- B. Require the blueprint to be submitted to the Governor, Lieutenant Governor, Speaker of the House, the Senate and House committees charged with overseeing TDH, and the Legislative Budget Board, by September 1 of each even-numbered year.
- C. Require the blueprint to be posted on the TDH web site and copies made available for those persons or groups that do not have Internet access.

Although TDH has taken steps to integrate some Medicaid and non-Medicaid programs, administration remains separate.

This recommendation would require TDH to develop methods to integrate and coordinate all applicable agency operations, to best meet the health needs of the citizens of Texas. The blueprint would provide detail as to how related TDH services and activities from various programs can be accessed and integrated to provide a higher and more efficient level of service without overlap. The blueprint would also serve as a means to identify opportunities to increase administrative efficiencies agency-wide, but especially in the health care delivery area.

Fiscal Impact

Developing and carrying out the blueprint should result in administrative savings, but those savings cannot be estimated. Any costs, if necessary, would depend on the findings and actions identified in the blueprint, once developed, and should be more than offset by the anticipated savings.

Issue 2

Integrate Related Health Care Delivery Programs to Improve Services.

The Texas Department of Health ensures the provision of health care services for low-income Texas residents, especially women and children. To achieve this goal, TDH administers 37 Medicaid and non-Medicaid direct health care delivery programs. Although TDH has taken steps to integrate some Medicaid and non-Medicaid programs — such as creating a children’s health bureau that includes both Medicaid and non-Medicaid programs — administration remains separate.

- **The Department’s various health care delivery programs serve similar clients, provide similar services, and use many of the same providers.** TDH health care delivery programs primarily target low-income women and children who are often eligible for benefits from different programs.
- **Although the services and clients are similar, separate administration results in inefficiencies and duplication.** TDH operates separate and duplicative administrative structures for many of its health care delivery programs. Most TDH programs also have separate contract procurement, contract monitoring, and claims reimbursement. Even though many services and providers are similar among TDH programs, TDH procures

services separately by program. The Department also duplicates efforts by monitoring many of the programs independently.

Recommendation

Change in Statute

- A. Require TDH to integrate health care delivery programs, including Medicaid and non-Medicaid programs, to the maximum extent possible. At a minimum, health care delivery integration should include:**
- **policy development and implementation; and**
 - **contract administration — procurement, monitoring, and reimbursement.**
- B. Require TDH, within federal restrictions, to implement a pilot project that integrates all appropriate health care delivery programs, both Medicaid and non-Medicaid, in a managed care model.**
- C. Authorize TDH to seek waivers from federal requirements that restrict service integration.**
- D. To determine the best methods for integration, and minimize transitional impact, TDH should examine and report to the Legislature on the benefits of an integrated health care delivery system with regard to:**
- **client benefits,**
 - **provider service improvements,**
 - **administrative savings, and**
 - **statutory changes that would remove impediments to an integrated delivery system.**

E. TDH should submit the report required above as a part of the blueprint recommended earlier in this section. The report should include recommendations on statutory improvements that would remove impediments to an integrated health care delivery system.

F. The report on service delivery integration should focus on administrative efficiencies and savings that could be achieved through:

- **implementation of a uniform contracting process that incorporates the principles and process identified by the TDH Contract Leverage Team in its July 1996 *Contracting Guide for Client Services*,**
- **combining the RFP processes to ensure that providers are able to complete one contract for multiple services at the same time,**
- **coordinating contract performance monitoring, and**
- **combining claims processing and contractor reimbursement processes.**

Implementation of these changes should save time and money for both the State and those who provide health care to Texas citizens. These changes should improve the availability of services and decrease confusion for clients attempting to navigate through the Department's programs and providers.

Integration of these services will be a difficult task. However, this recommendation, in conjunction with an operational blueprint for the agency's broad array of services, should begin moving the State's massive health care bureaucracy toward a more cost-effective system.

Integrating programs would decrease confusion for clients.

Fiscal Impact

Since most TDH health care delivery services are purchased, coordination of provider selection, monitoring, auditing, and payment and claims reimbursement for Medicaid and non-Medicaid programs would greatly reduce operating costs. Sunset staff anticipates at least a 10 percent savings of non-Medicaid administrative costs, if integrated with Medicaid administration. This should result in savings of about \$1.1 million in state funds and an equal amount in federal funds.

Issue 3

Require TDH to Study the Impact of Medicaid Managed Care on Populations Served by the Department.

TDH has administered the Medicaid program in Texas, including both the fee-for-service and managed care portions of the program, since Medicaid was transferred to TDH from the Department of Human Services in 1993. The comprehensive set of services available through Medicaid includes primary and specialty care, early diagnosis and screening for children, medical transportation, and prescription drug benefits. Under the managed care portion of Medicaid, primary care providers oversee the medical care of Medicaid clients and control access to specialty care.

Texas operates two managed care models, the Health Maintenance Organization (HMO) model, and the Primary Care Case Management (PCCM) model. In the HMO model, TDH contracts with HMOs to provide a package of services for a set monthly fee. In the PCCM model, primary care providers contract with TDH on a fee-for-service reimbursement plus a \$3 per client per month fee for case management.

The State needs to know the impact of Medicaid managed care.

Recommendation

Change in Statute

Require TDH to conduct a study on the impact of Medicaid managed care on all populations served by the Department.

This recommendation would ascertain the impact of Medicaid managed care, including quality of care issues, on Texans served by TDH. Such a comprehensive study has not been conducted. As a result, the impact of Medicaid managed care on these populations is unknown. Findings of the study should be reported to the 77th Legislature.

Fiscal Impact

No fiscal impact would result from this recommendation. TDH can conduct this study using current resources.

Issue 4

Require TDH to Conduct a Comprehensive Examination of its Regulatory Programs.

To protect the health, safety, and welfare of the public, the State regulates the activities of many professions, facilities, and industries that pose a potential threat to the public. TDH administers 55 regulatory programs overseeing health professionals, health care facilities, and industries affecting public health, such as food manufacturers. During fiscal year 1997, the Department regulated more than 118,000 professionals and over 129,000 facilities.

Once a facility, service, or professional is licensed, TDH ensures public safety through continuing education, performing inspections, and investigating complaints. If a person, service, or facility is found to have violated statute or rules, the license or certification can

be revoked, suspended, or probated, or in some cases an administrative penalty can be levied.

- **Review of TDH regulatory programs raised significant concerns regarding the effectiveness of the agency’s regulatory functions.** Random examinations of the enforcement policies, results, and documentation of many TDH regulatory programs showed indications of lax enforcement across the agency. Despite examining a wide variety of the agency’s regulatory programs, Sunset had insufficient time to perform an in-depth analysis of all 55 regulatory functions at TDH. However, such concerns warrant a more detailed examination of TDH’s regulatory programs.
- **Information relating to the disciplinary history of professionals and facilities regulated by TDH is not readily available to consumers.** Each TDH regulatory program maintains information on the disciplinary history of the individuals and facilities it regulates. However, unlike a number of other regulatory agencies, a person can generally only obtain the disciplinary history of a health professional, industry, or facility regulated by TDH through an open records request. Only a few TDH regulatory programs maintain information regarding trends in violations committed by health professionals, industries, and health care facilities. Consumer access to regulatory information allows the public to make informed decisions.
- **Some TDH regulatory programs do not have authority to impose a full range of sanctions against persons or facilities that violate state law or related rules.**

Recommendation

Change in Statute

A. TDH, with the assistance of the State Auditor’s Office, should conduct a comprehensive evaluation of the Department’s regulatory functions. The evaluation should include an examination of the effectiveness of:

- **rules to support regulatory practices;**
- **inspection efforts, including scheduling of inspections;**
- **investigative practices, including those relating to complaints;**
- **use of sanctions;**
- **timeliness of enforcement actions; and**
- **compliance efforts.**

TDH needs to study the adequacy of enforcement in its regulatory programs.

This recommendation would require TDH to examine all its regulatory policies and practices to identify problem areas and recommend solutions to the TDH Board and the Legislature, if necessary. The examination should also include evaluating the Office of General Counsel’s enforcement role, particularly regarding the length of time between receipt of a case and final action.

B. Provide TDH with the authority to levy administrative penalties for programs regulating:

- **ambulatory surgical centers,**
- **birthing centers,**
- **hazardous product manufacturers,**
- **retailers of abusable glues and paints, and**
- **special care facilities.**

- C. Provide TDH with the authority to issue letters of reprimand for the program regulating Emergency Medical Service providers.**
- D. Provide the Advisory Board of Athletic Trainers and the Board of Licensure for Professional Medical Physicists with letters of reprimand and administrative penalty authority.**

These recommendations would provide authority to TDH to impose administrative penalties in seven areas of regulation where such authority is not currently provided. Administrative penalties are often used by regulatory agencies to take enforcement action short of removing a person's or facility's ability to do business.

- E. Require the Department to use electronic media, toll-free telephone numbers, and other appropriate methods to:**
 - **increase access to information regarding final enforcement actions against professionals or facilities regulated by TDH, and**
 - **disseminate trend information regarding enforcement action taken by TDH regulatory programs.**

The public should have easy access to TDH's complaint information.

This recommendation would enhance public access to complaint information by requiring TDH to post on the Internet histories of finalized enforcement actions regarding each health professional and health care facility the Department regulates. The recommendation would also require TDH to make the same information available via toll-free telephone numbers for people not able to access the Internet.

Management Action

TDH should ensure that complaint forms clearly state that citation of statute or rules, when filing a complaint, is optional.

Descriptions of alleged activities usually provide enough information to investigators to determine the appropriate rule or statute in question. The Department should also examine the complaint filing process to remove any other barriers to easy public access and use of the process.

Fiscal Impact

The evaluation of TDH regulatory activities should be performed with existing staff. However, start-up costs, including staff time and training, would be needed to develop and maintain a new portion of the TDH web site relating to regulatory enforcement actions. Costs would also be associated with establishing several toll-free telephone lines. No more than ten additional lines would be needed for an estimated cost of \$75,000 per year.

Revenue would be generated by the recommendation authorizing TDH to collect administrative penalties for regulation of the programs listed above. However, the amount of revenue generated would vary depending on the number and amount of administrative penalties levied by TDH and could not be estimated for this report.

Issue 5

Designate TDH as the Sole Licensing Authority for Narcotic Treatment Programs in Texas.

In Texas, 59 narcotic treatment programs administer methadone to treat narcotic addicts. The U.S. Food and Drug Administration (FDA) and the U.S. Drug Enforcement Administration regulate these programs at the federal level. Additionally, FDA requires states to provide oversight. On the state level, both the Texas Department of

Health and the Texas Commission on Alcohol and Drug Abuse (TCADA) regulate these facilities.

TDH, TCADA, and narcotic treatment program providers agree that designating TDH as the single licensing agency would result in more efficient and effective regulation. Staff of TCADA and TDH, as well as narcotic treatment providers contacted during the review, agreed that designating TDH as the sole licensing entity would be more efficient.

Recommendation

Change in Statute

A. Remove TCADA’s role in regulating narcotic treatment programs, and clarify that TDH is the sole state authority to regulate these programs.

By deleting references to TCADA’s licensing role, TDH would become the single state agency responsible for regulating narcotic treatment programs. TCADA would continue to maintain contractual oversight of the programs that it funds. TDH would continue to inspect each program on an annual basis, and the Commissioner of Health would continue to have broad enforcement powers, including the pursuit of administrative, civil, and criminal penalties.

B. The Board of Health should adopt rules for the regulation of narcotic treatment programs consistent with TCADA’s current rules.

To ensure that no oversight is lost when TDH becomes the single state regulatory agency for narcotic treatment programs, the Board of Health should review TCADA’s rules and, where applicable, adopt similar rules.

Fiscal Impact

This recommendation would have a minimal negative fiscal impact on the State. Currently, TCADA generates \$9,600 per year by

licensing 16 narcotic treatment programs which would be lost once TCADA ceases its oversight efforts. This recommendation would lessen the financial burden on these program providers.

Issue 6

Improve the Department’s Methods for Soliciting Public Input During Rule Development.

The Administrative Procedure Act (APA) requires that every state agency adopt rules outlining formal and informal agency procedures. Because clients receiving services and those who contract with an agency will ultimately be affected by the rules, and often have the most program expertise, the APA sets forth minimum standards to ensure their participation in the rulemaking process.

- **TDH has not maximized input from stakeholders and other experts during the development and evaluation of rules.** TDH does not always involve the critical stakeholders in the development of the rules before rules are formally proposed in the Texas Register, thus potentially jeopardizing their effectiveness.

Critical stakeholders should be more involved when TDH develops rules.

Recommendation

Change in Statute

A. Require TDH to establish a system for soliciting stakeholder input when developing rules.

B. TDH should establish uniform methods to solicit input during the development of rules, such as creating lists of stakeholders, by interest area, and using these lists to mail notices regarding the development of rules.

Involving stakeholders in the rulemaking process is critical to the development of effective and fair policies and ensures stakeholder support and cooperation once the rules are adopted. Because of the varied programs and complexity of the agency, the agency should take extra steps to ensure that all interested stakeholder representatives are notified when developing controversial rules or rules that would make a major change to a program.

Fiscal Impact

This recommendation would require TDH to adjust and increase consistency of policies already in place. These adjustments would not have a direct fiscal impact. If the Department decides to increase the number of notices mailed, postage and related costs could minimally increase.

Issue 7

Increase Oversight of Major Medicaid Contracts.

TDH has approximately \$6 billion in contracts for the delivery of Medicaid and non-Medicaid health care services. The Medicaid program, primarily through the Health Care Financing Associateships at TDH, contracts with insurance companies, health maintenance organizations, and program administrators for health care services totaling about \$5 billion. The largest of these contracts, worth \$70 million, is with the National Heritage Insurance Company (NHIC) to administer the State's Medicaid program.

- **TDH does not adequately monitor the performance of its largest Medicaid contractor.** TDH audits of the NHIC Medicaid contract have not been accomplished in a timely manner. Since the contract limits profits to a certain maximum amount, profits in excess of this cap

belong to the State. Delays in auditing the profits can have serious fiscal implications to the State. Although the TDH contract audit appears comprehensive and notes important findings, the significant delay prevents TDH from using the findings to improve its monitoring systems and NHIC performance in a timely manner. In addition, the manner in which TDH monitors NHIC performance is inconsistent with the Texas Internal Auditing Act.

- **TDH does not consistently solicit input from experts to ensure best quality services from complex, high-dollar Medicaid contracts.** TDH has not regularly consulted with the Health and Human Services Commission (HHSC) on contract development, and does not include HHSC legal staff in the preparation of Medicaid requests for proposals or contracts. HHSC has significant expertise regarding Medicaid contracts because it reviews the contracts for the three Medicaid operating agencies, the Department of Mental Health and Mental Retardation, the Department of Human Services, and TDH. In addition, TDH has not regularly consulted with the Texas Department of Insurance (TDI) on the development and procurement of HMO contracts, even though TDI has the responsibility to monitor HMO solvency and quality of care.

Recommendation

Change in Statute

Require an annual external audit of the Medicaid fiscal agent, currently NHIC.

With TDH audits running three years behind and no required external audits of the largest TDH contract, the State needs to increase its oversight of NHIC to reduce financial risk. An external audit of the Medicaid fiscal agent would provide TDH with timely, objective

information about NHIC’s financial condition and would ensure the financial accuracy of NHIC’s cost and profit calculations.

Management Action

A. TDH should transfer the operational function of NHIC contract performance and financial monitoring from the Internal Audit Division to the Health Care Financing Division.

Health Care Financing is the TDH division currently responsible for Medicaid contract and policy development, and should directly monitor the performance and finances of the largest Medicaid contractor. However, the Internal Audit Division of TDH currently carries out contract performance and financial monitoring of the NHIC contract. Transferring the operational function of contract monitoring would improve contract oversight of this high-risk contract.

B. TDH should seek expertise from the Medicaid single state agency, currently HHSC, and TDI for the development and monitoring of Medicaid contracts to ensure the procurement of best quality services.

C. TDH should ensure consistent use of performance-based contracting procedures throughout the agency.

Although TDH has developed contracting standards that incorporate principles established in law, agency-wide implementation of these standards has not occurred. Full implementation would ensure that each program uses the best contracting procedures and obtains the best value for money spent.

D. TDH should provide incentives, when possible, for contractors to meet and exceed contract requirements.

TDH should set goals for each provider and tie provider funding to achievement of performance goals where appropriate.

Fiscal Impact

While hiring an independent, external auditor for the NHIC contract will create an additional expense for the Department, the amount cannot be determined until TDH identifies the appropriate scope of the audits. In addition, auditors should identify additional opportunities for savings.

By moving toward incentive and performance-based contracting, TDH should achieve savings for the State. Risk-based financial and performance monitoring ensures that state resources are used efficiently to focus efforts toward contracts that pose the greatest threat to state clients and funds. As a result, state dollars are saved through efficient monitoring systems that ensure improved contractor services. However, the impact of these recommendations would vary depending on the level of implementation; thus, the fiscal impact of this recommendation cannot be estimated for this report.

Annual audits of the \$70 million NHIC Medicaid contract would reduce financial risk.

Issue 8

Reimburse Medicaid Providers Through Electronic Funds Transfer.

Limited state and federal resources make pursuing cost savings an important factor in efforts to increase health services for many of the neediest Texans. Electronic commerce, the paperless exchange of business information, is one way that government and businesses heighten productivity and efficiency. Paper-driven processes are being re-engineered to meet the demands of an increasingly competitive world. Electronic funds transfer (EFT), commonly called “direct deposit,” is widely used in the government and private sectors to save administrative and transaction costs.

TDH contracts with the National Heritage Insurance Company (NHIC) to process approximately 34 million Medicaid claims per year. Providers submit claims to NHIC for clients enrolled in traditional fee-for-service Medicaid and also for those enrolled in the primary care case management (PCCM) model of Medicaid managed care.

Recommendation

Change in Statute

Require TDH to use electronic funds transfer for all payments to Medicaid providers.

This recommendation would lead to significant administrative efficiencies for the National Heritage Insurance Company, the Medicaid claims administrator. Savings would be passed on to the State because the contract allows TDH to pay either a fixed price or actual costs, whichever is lower.

Fiscal Impact

The EFT requirement would have a positive fiscal impact on the State. If all Medicaid payments are done through EFT, NHIC estimates that it will save approximately \$1 million a year in administrative costs. NHIC estimates that contract savings to the State would be approximately \$350,000 a year.

Issue 9

Maintain the Toxic Substances Coordinating Committee.

In 1987, the Legislature responded to public concern about the health effects of harmful substances in the environment. Numerous state agencies enforce laws that impact human health, and the lack of one clear authority or a clear state voice on human

health risks added to the public's concern. Realizing that interagency cooperation is essential to the effective coordination of regulatory programs that have an impact on public health, the Legislature created the Toxic Substances Coordinating Committee (Committee), an interagency effort between TDH, Texas Department of Agriculture, Railroad Commission, Texas Parks and Wildlife Department, Department of Public Safety, and Texas Natural Resource Conservation Commission. Before passage, the House amended the bill by adding a September 1, 1999 expiration date. The expiration date does not require a Sunset review.

Recommendation

Change in Statute

Repeal the expiration date for the Toxic Substances Coordinating Committee.

This recommendation would allow the Toxic Substances Coordinating Committee to continue promoting interagency coordination on the regulation of toxic substances and harmful physical agents. The Committee is the only official forum for TDH, the State's lead health agency, to discuss potential health risks related to these harmful substances. Furthermore, this recommendation would allow Texas state agencies to continue tapping into Health Department expertise in the area of public health epidemiology and toxicology.

Fiscal Impact

This recommendation would have no fiscal impact. The members of the Committee are all state agency employees whose salaries are paid for by their respective agencies.

Issue 10

Transfer TDH Administrative Hearings to the State Office of Administrative Hearings.

The Legislature has clearly expressed its intent to consolidate the hearings functions of state agencies if such a transfer would improve the independence, quality, or cost effectiveness of hearings. The review of the Department's Administrative Practices Act (APA) hearings process indicated that State Office of Administrative Hearings (SOAH) has the ability to conduct the hearings and that a transfer would provide more perceived independence, an equal level of quality, and could improve the cost effectiveness of the hearings process. Federally required "fair" hearings, usually regarding benefit appeals, would remain at TDH.

Recommendation

Change in Statute

Transfer the Department's Administrative Procedure Act hearings to the State Office of Administrative Hearings.

This recommendation would transfer the Department's APA hearing function to the State Office of Administrative Hearings. The Department set 287 APA hearings in fiscal year 1997. In conducting hearings, SOAH would consider TDH's applicable substantive rules or policies. In this way, the Department would still determine how broader policy matters or recurring issues would be treated by administrative law judges (ALJs).

Fiscal Impact

Historical data indicates that costs related to administrative hearings transferred to SOAH have been reduced by approximately 39 percent. However, the fiscal impact of this

transfer of duties cannot be determined because the specific costs for TDH related to the hearings will depend on the payment structure determined by the Legislature and whether TDH is able to reduce its number of ALJs.

Issue 11

Establish a Statutory Advisory Committee on Emergency Medical Services.

TDH currently uses the Emergency Health Care Advisory Committee (EHCAC) to aid in the development of rules on emergency health care. EHCAC is established in rule, not by statute, and is composed of 14 members. Four of the members must represent consumers and 10 represent experts in emergency care. The 10 experts include an emergency physician, an emergency medical services provider, a certified emergency medical technician, an emergency nurse, a pediatrician, a trauma surgeon, a trauma nurse, a health facility administrator, a fire department provider, and an EMS medical director.

Recommendation

Change in Statute

Establish an advisory committee to the Board of Health on emergency medical services appointed by the Governor.

This issue would create a new advisory committee in statute, appointed by the Governor, and composed of representatives of organizations and professional associations whose membership deliver emergency medical services. This new committee would replace the non-statutory Emergency Health Care Advisory Committee appointed by the Board of Health.

Fiscal Impact

The fiscal impact of this recommendation depends on the final structure of the committee, but should be minimal. Costs associated with the committee would include travel reimbursement and per diem.

Issue 12

Require TDH to Provide Emergency Medical Services Testing in All Areas of the State.

Persons seeking certification as emergency medical technicians are required to pass an examination to show they have mastered the skills and information necessary to effectively react in emergency situations. Testing for this certification is done across the state by TDH staff, but may require overnight travel by persons not living in close proximity to the testing site. Overnight travel by emergency personnel may leave some smaller communities with a reduced emergency services capacity.

Recommendation

Change in Statute

Require TDH to provide EMS testing in all areas of the state.

This recommendation would require TDH to provide EMS testing in all areas of the state, so that overnight travel is not required by any person taking the test.

Fiscal Impact

Increasing the number of testing sites across the state would have a fiscal impact. However, the amount would depend on the number of persons seeking certification and the number of sites necessary to ensure no overnight

travel is needed to administer the tests. As a result, the fiscal impact of this recommendation could not be estimated.

Issue 13

Continue the Department for Eight Years.

The Texas Department of Health provides direct and indirect health services for persons throughout the state. Because TDH provides such basic services, the Sunset Commission concluded that a need for the functions of the Department exists, and that the Department should be continued.

Recommendation

Change in Statute

Continue the Texas Department of Health for eight years.

This recommendation would continue the Commission until September 1, 2007, to coincide with the Sunset review of other health and human services agencies.

Fiscal Impact

If the Legislature continues the current functions of TDH, its annual appropriation of about \$6.6 billion would continue to be required for the operation of the agency.

More EMS testing sites would help emergency personnel better serve small communities.

Texas Department of Human Services



Key Agency Duties

- Determines eligibility for state and federal benefits, including:
 - Assistance programs for low-income parents and children such as Temporary Assistance for Needy Families (TANF), food stamps, and Medicaid; and
 - Long-term care programs for the elderly and persons with disabilities, such as community care and institutional care in nursing facilities.
- Regulates and investigates allegations of abuse and neglect in nursing facilities, intermediate care facilities for people with mental retardation (ICF/MR), adult day-care facilities, and personal care homes.
- Licenses nursing facility administrators.
- Contracts with non-profit agencies to provide statewide family violence services such as shelters, education, and training.

Appropriation for FY 1999: \$3.5 billion

Number of Employees for FY 1999: 15,841

Statutory Reference: Human Resources Code, Chapter 21

Board Members (6)

David Herndon, Chair (Austin)	Anchi Ku (Dallas)
Carlela Vogel, Vice Chair (Ft. Worth)	Elizabeth D. Seale (San Antonio)
Bill Jones (Houston)	Carole A. Woodard (Houston)

Agency Head: Eric M. Bost, Commissioner, (512) 438-3030.

Recommendations

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Texas Department of Human Services



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Issue 1

Create a Family Assessment and Case Management Function to Address the Needs of Families on Public Assistance.

As of November, 1999, about 117,000 parents were receiving Temporary Assistance for Needy Families (TANF). Many parents on TANF experience multiple barriers to independence, such as lack of work experience, lack of financial child support, physical disabilities, substance abuse problems, and domestic violence problems. In addition, DHS estimates that at least 25,000 TANF cases per month have one or more sanctions, with a value of approximately \$1.6 million in reduced benefits. The purpose of client sanctions is to increase compliance with program requirements and motivate families to reach self-sufficiency.

- **The State is under increasing pressure to meet welfare work participation rates and deal with the impact of families losing TANF benefits.** Welfare reform, coupled with a strong economy, has contributed to a steady decline in the number of families on welfare. As most eligible TANF recipients with work participation requirements continue to seek work or job training, the remaining caseload will consist of exempted recipients that may not be job ready, or recipients that are at-risk of losing their time-limited benefits.
- **The State is failing to identify and address the basic needs of families facing difficulties in becoming independent.** Currently, clients receive three different “assessments,” two at DHS and one at the Texas Workforce Commission, none of which offer a single point of accountability for determining the service needs of the entire family. DHS case-

workers are still operating on the old Aid to Families with Dependent Children (AFDC) eligibility determination model, focusing on obtaining information for program requirements. DHS eligibility staff have little time to assess families for a broader range of support services.

- **DHS does not consistently or rapidly apply TANF sanctions.** DHS does not prioritize processing sanctions over other recipient changes, and does not maximize the potential of sanctions to help recipients comply with program requirements.

Recommendation

Change in Statute

- Require DHS to create a single comprehensive family assessment and case management function for all families eligible for DHS services, separate from the eligibility determination function.**
- Require DHS to prioritize the processing of sanctions.**

These recommendations would ensure that families on public assistance have every chance to obtain the services they need to overcome their problems and participate successfully in employment programs. To achieve that end, DHS should assess family needs and problems, provide case management services, and refer families to appropriate community health care services, drug and alcohol counseling, domestic violence programs, and other needed services. Prioritizing the processing of recipient benefits sanctions should make those sanctions more effective in bringing recipients into compliance with program requirements.

A single assessment would better identify a client's need for services.

Management Action

DHS should review current client service policies to:

- **improve, where possible, current client “hand-offs” to other state agencies during eligibility, sanctioning, and diversion processes; and**
- **improve the quality of client hand-out materials.**

Clients need a better “hand-offs” from DHS to other agencies.

By reviewing current client “hand-offs” (transitions) to other state agencies, DHS can improve service delivery, and help bring more clients into program compliance by removing barriers to services. DHS should manage the production of a basic packet of program information on participation requirements, benefit time-limits, and client rights/responsibilities for distribution to the regions.

Fiscal Impact

With the declines in client caseloads, DHS could adjust the duties of some eligibility staff to assess families and provide case management services. The costs of these changes in staff responsibilities and functions should be met within the existing staff funding levels and the TANF block grant.

DHS estimates that approximately 25,000 TANF clients per month have at least one sanction, and these client sanctions have a monthly value of approximately \$1.6 million to the State. By prioritizing the processing of sanctions, DHS would realize savings through improved cash management.

Issue 2

Improve Access to Community Care for Elderly and Disabled People.

Community Care for Aged and Disabled (CCAD) programs have become a popular way for clients to have their daily living needs

met while avoiding placement in institutional care. Texans who benefit from these programs include the elderly and people of all ages with developmental disabilities or physical disabilities. The State benefits from the use of these services as they are typically less costly than institutional alternatives. To determine program eligibility, DHS caseworkers complete a functional assessment and a determination of the client’s financial eligibility.

- **DHS’s waiting list policy does not address the risk of institutional placement for those individuals most in need of services.** By maintaining waiting lists on a first come, first served basis, DHS has been unable to meet the demand for services provided in the community for the most needy clients. As a result, medically complex individuals at greatest risk for institutional placement may never receive services in the community before their condition forces them into a nursing home.
- **A lengthy eligibility determination process delays services to those in need of immediate services.** The eligibility determination process can take as long as 90 days to complete for individuals under the age of 65 and up to 45 days for individuals 65 years of age and over. During this waiting period, the condition of some individuals deteriorates to the point where they are forced to enter an institutional care setting.
- **Although DHS policy does require caseworkers to adjust care to appropriately meet the client’s needs, the policy is not consistently implemented.** For many DHS clients, care needs are only likely to increase as the client ages. For some individuals, however, once their condition has stabilized they no longer need the same level of care.

Recommendation

Change in Statute

- A. Require DHS to maintain need-based waiting lists for community care programs.**
- B. Authorize DHS case workers to use presumptive eligibility procedures for clients seeking Community Based Alternatives or Primary Home Care services through Frail Elderly funding.**
- C. Require DHS caseworkers to adjust a client’s plan of care in response to a change in the client’s condition, as determined by an official reassessment.**

These recommendations would require DHS to assess clients seeking community based services to determine the level of risk of placement in a nursing home. This system would be similar to a hospital emergency room where those most in need receive services first.

Presumptive eligibility allows an individual to begin receiving Medicaid services before the individual is officially documented to be Medicaid eligible. Presumptive eligibility would enable some individuals to obtain services more quickly and prevent a further deterioration of their condition requiring more comprehensive and more expensive care in an institutional setting.

Allowing the caseworker to appropriately adjust services received in those situations simply reinforces the notion that care should not be provided beyond what the client needs and is consistent with federal regulations.

Fiscal Impact

The recommendation to maintain need-based waiting lists would involve additional DHS staff time in some cases. However, for some clients, DHS staff already conduct the

necessary needs assessments for other community care programs. In carrying out presumptive eligibility, savings would result from early provision of less-costly community services to those who would otherwise enter nursing homes.

The recommendation to adjust care plans to reflect a decreased need for services due to improvements in the client’s condition may also result in savings; however, the specific fiscal impact of these recommendations cannot be determined.

Waiting lists for community care should be prioritized based on need.

Issue 3

Improve the Quality of Community Care Through Selective Contracting and Stronger Monitoring.

DHS contracts for a variety of services to provide long-term care assistance to the elderly and persons with disabilities. DHS contracts with home health agencies to provide community care services such as assistance with daily living. In addition, DHS uses waivers from federal Medicaid rules that allow the agency to use funds designated for institutional care to contract for services in the community. As use of community care programs continues to grow, the Department’s ability to ensure that providers offer high quality services becomes increasingly important.

- **DHS does not consistently monitor community care providers throughout the state.** DHS does not have a state-wide system of compliance monitoring for community care providers. Monitoring is left to the discretion of the regions to design, schedule, and implement. In addition, not all regions monitor the same programs, some regions do compliance monitoring for all of their programs while others only do fiscal monitoring.

- **DHS does not focus on holding community care providers accountable for client outcomes.** The focus of fiscal monitoring visits is on billing and other paperwork errors, not on a provider’s compliance with clients’ plans of care, and the quality of services that are subsequently delivered. In addition, DHS does not include performance or outcome measures in contracts, and providers are not required to report such measures.

Recommendation

Change in Statute

- A. **Prohibit use of open enrollment contracting policies and use selective contracting procedures to minimize administrative costs.**
- B. **Require DHS to include the following provisions in all of its contracts for community care services:**
 - **clearly defined and measurable program performance standards based on client specific data, and**
 - **clearly defined sanctions or penalties for nonperformance of any contractual obligations.**
- C. **Require DHS to use a risk assessment methodology to institute statewide monitoring of contract compliance of community care providers.**

Medicaid law allows selective contracting if consumers have a choice among providers. Using selective contracting would allow DHS to focus limited staff time and resources on providing higher quality services to more clients. The implementation of selective contracting procedures should include steps to ensure that more than one provider is available in a specific geographic area. Including outcome measures in community care contracts would refocus the State’s

attention on ensuring quality service delivery, rather than simply focusing on meeting minimum federal and state requirements.

Selective contracting and the inclusion of outcome measures would not impact the quality of care delivered unless appropriate monitoring of providers takes place. Since continual monitoring of all community care providers is not an effective use of limited resources, DHS should design a risk-based monitoring system that focuses on poor performing providers to ensure that quality services are being delivered to clients.

Management Action

- A. **DHS should develop statewide contracting policies and procedures to guide areas such as contract procurement, monitoring, and sanctioning to be used in all DHS regions.**
- B. **DHS should explore requiring all providers to use one contract for waiver and non-waiver program services.**

Regional autonomy has left regional directors and their staff unclear about their responsibilities when contracting for community care services. Clearer direction from the State office would address areas of confusion that exist relating to current agency policy.

Multiple contracts with one provider create an unnecessary administrative and monitoring burden for DHS and providers. Combining the waiver and non-waiver program contracts would give DHS a complete picture of each provider’s service delivery system that could be used to determine the risk posed by each provider. In addition, a single contract across program areas would allow DHS to streamline monitoring of similar services provided through different programs, decrease the number of administrative errors, and reduce the time and money required to administer multiple contracts.

DHS needs to hold providers more accountable for outcomes.

Fiscal Impact

This recommendation to use selective contracting procedures would result in a positive fiscal impact to DHS and the State. The savings would offset any costs associated with increased monitoring of provider compliance and performance since DHS would have fewer providers to monitor under a selective contracting system. Total savings from selective contracting cannot be determined as the number, value, and savings associated with contracts cannot be estimated.

Issue 4

Require Performance Standards in Contracts for Nursing Facility Care.

DHS both purchases services for long-term care and regulates providers of these services. DHS contracts with nursing facilities to provide institutional care to Medicaid recipients who have a documented medical condition requiring the skills of a licensed nurse.

Nursing homes must comply with state and federal certification requirements to participate as providers in the Medicaid program. To be certified, a nursing facility must meet all federal Health Care Financing Administration (HCFA) standards along with state life safety code requirements and licensure standards. DHS conducts annual survey visits to monitor a facility's compliance with HCFA and state regulations.

- **DHS does not make best use of the contracting process to address service delivery problems in nursing facilities.** DHS has not established minimum contracting standards for nursing facilities. Currently, as long as the facility meets licensure and certification requirements, their contract

with DHS is renewed automatically. Without contracting standards, nursing facilities are only subject to Federal regulatory standards and state licensure and certification requirements.

- **The State and consumers are not fully informed on the quality of care being delivered in nursing facilities.** Regulatory information is not easily accessible or understandable to the general public. The focus of information is on facility compliance with safety and health requirements, and federal regulations. The data is not gathered with the intent of providing the public with information on the quality of care in specific facilities, and the data is not user-friendly to persons seeking information on specific facilities.

Recommendation

Change in Statute

- Require DHS to develop rules setting minimum contract performance standards and include those minimum standards in all contracts for nursing facility care.**
- Require the agency to assemble existing regulatory and service quality data in a format for use by the general public.**

DHS should build on, but not duplicate Medicaid standards for nursing homes, to better ensure outcome-based contracting decisions that incorporate quality of care analyses. To date, the focus of efforts to ensure quality care in institutional settings has been on DHS's regulatory functions. While regulatory tools are an important part of creating an environment where quality service delivery is the norm, contracting methods give DHS another way to ensure that the State purchases quality care in institutional settings. Including minimum service delivery requirements in DHS's contracts with nursing

The public needs better information on quality nursing care facilities.

facilities strengthens the agency's ability to deal with facilities that consistently provide substandard care.

Ensuring easy access to information enables the general public to make fully informed choices and use consumer choice to encourage quality care in nursing facilities. The data made available to the general public should contain existing regulatory information such as the number of complaints, final outcomes of complaint investigations, and final sanction information. DHS should make this information easily accessible and understandable and allow the public to make its own decisions about the quality of care provided.

Management Action

DHS should receive information gathered by the Utilization Review staff at the Health and Human Services Commission. DHS should use the HHSC information to make necessary policy changes and to identify high risk facilities requiring additional monitoring.

Information on the accuracy of facility data on resident conditions, as well as the general state of residents within a facility reflected in the rate change information, should be shared with DHS Long-Term Care Regulatory staff and Program staff. The information can be used to assist the agency in deciding whether to continue contracting with a facility. In addition, Utilization Review data can provide information on recurring problems in resident outcomes at each facility. Survey staff could use the information to plan survey visits to ensure that potential problems are addressed during the survey visit.

Fiscal Impact

The recommendations requiring DHS to develop contract performance standards would result in positive fiscal impacts to DHS and the State. Savings would accrue primarily through reduced payments to facilities

providing substandard care. Total savings cannot be determined as the number, value, and savings associated with the contracts cannot be estimated.

Issue 5

Strengthen Long-Term Care Regulation by Standardizing and Tracking Enforcement.

DHS is responsible for the regulation of various types of long-term care facilities, primarily nursing homes and other facilities such as intermediate care facilities for mental retardation, personal care homes, and adult day health care centers. In addition DHS regulates some long-term care occupations.

- **DHS has not fully used the regulatory tools available to sanction poor performing long-term care providers.** The agency's annual inspection process focuses on meeting federal requirements for Medicaid certification. Administrative penalties have been used on a limited basis, even though such penalties often provide quicker remedies.
- **DHS does not have a standardized system to track the implementation or effectiveness of corrective action plans.** When sanctions are recommended, the agency mostly relies on informal processes and corrective action plans to bring facilities into compliance.

Recommendation

Management Action

- A. DHS should continue to standardize enforcement policies and procedures across regions to achieve the following objectives:**

- **standardized enforcement protocols that involve the full range of regulatory remedies, both state and federal;**
- **improved monitoring of regional regulatory offices for timely resolution of deficiencies and enforcement of sanctions; and**
- **enhanced automated regulatory systems to track the history of each inspection and/or complaint investigation incident including their resolution.**

B. Direct DHS to develop criteria, in published rules, regarding circumstances that trigger the imposition of each of the remedies the agency has available.

This recommendation would require DHS to use the full range of regulatory tools available. By using the full range of regulatory remedies, the agency could tailor its regulation based on the seriousness of the violation and the history of the provider. Standardizing enforcement steps across the agency would provide regional consistency and eliminate variances in provider treatment across the state.

Fiscal Impact

The recommendations would have no fiscal impact to the State.

Issue 6

Require Performance Agreements for DHS Regional Administrators.

DHS delivers its services through 10 regional offices with approximately 12,800 staff and a budget of over \$450 million. Funds are allocated to regions primarily on the basis of

historical caseload. Regional administrators manage regions with considerable autonomy, and may independently set staffing levels and contract for purchased client services, as long as the administrator stays within the regional budget.

- **DHS regions have not effectively met some legislative objectives.** DHS executive management has not developed regional objectives and related data collection mechanisms to assess regional performance in meeting legislative mandates.
- **DHS regions have not established management objectives related to service quality, funding allocations, or key administrative tasks.** DHS does not have written region-specific management objectives and priorities are not in place, so the performance of a region is left to subjective judgement and “management by exception.” Current funding levels for regional Community Care for the Aged and Disabled and Medicaid Determination services are not reliably tied to regional need. In addition, as Temporary Assistance for Needy Families (TANF) caseloads have declined, DHS regions have not reallocated resources to strengthen performance or meet other regional needs.
- **DHS has no public method or formal process for collaborating with local client advocates and community-based programs.** Regional administrators should be required to identify and prioritize client needs and participate in coordinating state and local resources. Absent a public performance contract, the local responsibilities and objectives of DHS are not clearly defined to the public.

DHS needs more consistency in its care regulation of long-term care providers.

Recommendation

Change in Statute

Require the DHS Commissioner to:

- **enter into a region-specific performance agreement with each DHS Regional Administrator that sets performance objectives and includes key performance criteria related to legislative initiatives;**
- **develop the regional performance agreement with the input of community health and human services providers (including nursing facility and personal care homes), clients, and advocacy groups;**
- **disseminate the performance agreement to the public and other health and human services agencies in the community;**
- **assess the performance of each region in meeting its objectives and annually report the results of the assessment to the Legislature; and**
- **consider regional objectives and performance in establishing regional budgets.**

State laws consistently emphasize the importance of accountability in the use of public resources. Organizations that contract with the State are expected to achieve specific measurable outcomes and outputs and to be accountable for proving best value for the state's dollar. Executive managers responsible for delivering services within a DHS region should, at a minimum, be held accountable to similar measurable performance standards.

Fiscal Impact

The recommendation requiring DHS to seek local input and set expectations for regional administrators to meet should be

implemented with existing state office and regional staff. Considering regional objectives and performance in regional funding allocations should lead to a more efficient use of resources.

Issue 7

Strengthen Family Violence Services Through Competitive Contracting and the Funding of Non-Residential Services.

The DHS Family Violence program provides services to any person who is a victim of domestic abuse in Texas.

Family Violence services include emergency placement of families in shelters to escape immediate violence and non-residential services including: emergency medical care, counseling, transportation, legal assistance, employment information, community education, referrals to community services, and volunteer recruitment. DHS contracts with the Texas Council on Family Violence to assist DHS in administrative support, service delivery, and policy development.

- **DHS has not competitively bid the contract for family violence technical assistance and training services since 1982.** The Texas Council on Family Violence previously was the only organization with experience in family violence issues, yet in recent years a wide variety of organizations have developed expertise on these issues. The State could benefit from expanding contracting options to receive the highest quality family violence services.
- **State funds cannot be used to fund non-residential family centers, even if such centers meet all criteria except providing shelter.** By funding only residential services, the State is missing opportunities to meet the need for broader family violence services.

Regional administrators should be held accountable for services and outcomes.

- **Referrals between local Family Violence programs and prevention programs are limited.** At the local level, referrals from Family Violence shelters to Protective and Regulatory Services prevention programs are not common. Children who enter the Family Violence program have a wide range of needs and may be victims of abuse and neglect. Closer coordination between Family Violence programs and protective services would increase access to services for individuals in at-risk situations.

Recommendation

Change in Statute

- A. Allow funding of non-residential family violence centers and require competitive bidding of contracts for training and technical assistance.**
- B. Expand the definition of family violence service providers to allow State funding of non-residential family centers.**
- C. Require the DHS Family Violence Program and PRS to develop policies and procedures to coordinate their activities at the state and local level.**

These recommendations would ensure the State receives the highest quality family violence services by introducing competition into the contracting process, allow the State to fund a mix of residential and non-residential services as appropriate, and improve access to services by persons at-risk of domestic violence.

Fiscal Impact

These recommendations should be implemented with existing agency resources.

Issue 8

Transfer the Administration of Certain Nutrition Assistance Programs from DHS to the Texas Education Agency.

Currently, Texas federal child nutrition program funding and administration are divided between DHS and the Texas Education Agency (TEA). In fiscal year 1998, TEA administered the majority of state child nutrition programs using 1,258 contractors, a budget of approximately \$674 million, and serving over 3 million meals. DHS administers similar programs using 600 contractors, a budget of approximately \$6.3 million, and serving about 388,000 meals in fiscal year 1998.

DHS programs provide cash reimbursements for meals meeting United States Department of Agriculture (USDA) standards served to children in child care facilities, private schools, and residential child-care institutions; and to functionally impaired adults or people in adult day-care center who are age 60 or older receiving services. These DHS programs include Child and Adult Care Food Programs, the National School Lunch Breakfast Programs, Summer Food Service Programs and the Special Milk Program.

DHS' Family Violence Program needs to increase coordination with PRS.

Recommendation

Change in Statute

Transfer administration of the child and adult nutrition programs from the Department of Human Services to the Texas Education Agency.

This change would merge several similar nutrition programs into one agency to reduce administrative costs.

Fiscal Impact

The recommendation would result in a savings to the state by reducing administrative costs, though exact figures could not be calculated.

Issue 9

Transfer DHS Administrative Hearings to the State Office of Administrative Hearings.

DHS conducts hearings governed by the Administrative Procedure Act (APA) involving sanctions against nursing homes, audit exceptions, level of care payments, and licensing issues. The primary DHS staff participants in APA hearings are attorneys from the Office of General Counsel or the regions, the Administrative Law Judges (ALJs) from state office, and those program staff necessary for presentation of the Department's case.

- **DHS's administrative hearings process would be more independent if located at State Office of Administrative Hearings (SOAH).** Most participants in DHS hearings, including the Administrative Law Judge (ALJ), DHS attorneys, and investigative staff, are all DHS employees. These relationships provide the opportunity for ex-parte communication and creates the perception that the hearings process and the ALJ's decisions are not fair. The lack of perceived independence would not exist if APA hearings were transferred to SOAH.
- **SOAH has the experience and ability to hold quality administrative hearings.** SOAH conducted 18,515 hearings in fiscal year 1997 for 50 agencies, including several health and human services agencies. Additionally, by having nine regional offices, SOAH can provide

better access to hearings than DHS, and eliminate travel time for ALJs sent out from Austin by DHS.

Recommendation

Change in Statute

Transfer the Department's Administrative Procedure Act hearings to the State Office of Administrative Hearings.

This recommendation would transfer the agency's APA hearing function to SOAH. Fair hearings would continue to be conducted by DHS regional staff.

Fiscal Impact

Historical data indicates that costs related to administrative hearings transferred to SOAH have been reduced by approximately 39 percent. However, the fiscal impact of this transfer of duties cannot be determined because the specific costs for DHS related to the hearings will depend on the payment structure determined by the Legislature and whether DHS is able to reduce its number of ALJs.

Issue 10

Continue the Department for Eight Years and Add Medical Expertise to the Board.

The Department of Human Services is the state agency primarily responsible for determining eligibility and certifying that clients are eligible to access public assistance benefits. The agency administers a variety of state and federally-funded programs designed to benefit low income families and children, people who are elderly or disabled,

and victims of family violence. The Sunset Commission found an ongoing need for these functions.

Many of the programs administered by DHS involve the participation of medical professionals. The current structure of the DHS Board does not include requirements for medical expertise on the Board to assist the agency in formulating policy that often involves health concerns of Texans.

Recommendation

Change in Statute

- A. Continue the Department of Human Services for eight years.**
- B. Modify the composition of the DHS board to include one medical doctor with expertise in geriatrics and one other health care professional.**

These recommendations would continue the Department of Human Services. A Sunset date of 2007 would continue to include DHS

in the same review cycle as all other health and human service agencies. In addition, this recommendation would require two board members with medical expertise; however, the size of the six-member board would not change.

Fiscal Impact

If the Legislature continues the current functions of the Department, its annual appropriation of about \$3.5 billion in fiscal year 1999 would continue to be required for the operation of the agency.

Texas Department of Mental Health and Mental Retardation



Key Agency Duties

- Planning, policy development, and oversight of mental health and mental retardation services in the state.
- Operates 11 state schools for persons with mental retardation and eight state hospitals for persons with mental illness, two state centers and 10 state-operated community services.
- Contracts with 38 community mental health and mental retardation centers across the state for services.

Appropriation for FY 1999: \$1.6 billion

Number of Employees for FY 1999: 23,119

Statutory Reference: Health and Safety Code, Title 7, Chapter 532

Commission Members (9)

Charles M. Cooper, Chairman (Dallas)
Rosemary Neill, Vice-chairman (El Paso)
Rudy Arredondo, Ed.D. (Lubbock)
Spencer Bayles, M.D. (Houston)
Andrew P. Hardin (McKinney)
Harriet Marmon Helmle (San Antonio)
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Edward B. Weyman (Midland)

Agency Head: Karen Hale, Commissioner, (512) 206-4588

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Texas Department of Mental Health and Mental Retardation



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Issue 1

Require the Department to Plan for the Future of State Hospitals and State Schools.

The Department's service delivery system has evolved from a system of providing services almost exclusively in institutional settings to one that emphasizes community-based treatment. However, the Department continues to operate 22 campus-based facilities, which are budgeted at more than \$1 billion this biennium. While the Department has focused on providing an increasing array of services in the community, it has not fulfilled its responsibility to develop a long-range vision for facilities and link them with community-based services.

- **The Department has not reacted to the declining census with adequate long-range planning for the future of its state schools and state hospitals.** The Department has not devoted staff or resources to long-range planning of campus-based institutions despite having planning and oversight responsibility over the entire mental health and mental retardation system. As a result, the Department does not have a vision for what its 22 campus-based institutions will look like in the next century.
- **Planning for the future of state schools and state hospitals could help the Department and the Legislature allocate resources more efficiently and effectively.** By planning now, the Department can ensure that its institutions will offer the services that are needed to complement the growing system of community based mental health and mental retardation services.

Recommendation

Change in Statute

A. **Require the Department to conduct long-range planning for its state-operated institutions. This plan should:**

- **estimate future bed requirements for state schools and state hospitals, and document the methodology used to derive these numbers;**
- **project the costs to maintain existing facilities and recommend strategies to maximize the future use of these facilities; and**
- **define how each state school and state hospital will serve and support communities and consumers in its service area and fulfill statewide needs for specialized services.**

B. **Require the Department to develop the plan with input from local community centers, community representatives, and other stakeholders.**

C. **Require the Department to present or provide a biennial plan to the Governor, the Legislature, and the Health and Human Services Commission, with data and recommendations that focus on the most efficient long-term use of its campus-based facilities.**

D. **Require this report to also be provided to the Governor's Budget Office and the Legislative Budget Board for consideration in the Department's legislative appropriation.**

E. **Require the Department to clarify the process for admission to state schools by:**

The State needs a vision for what TDMHMR's facilities will look like in the future.

- **establishing an ombudsman to help parents when requested services have been denied, and**
- **establishing criteria for use of campus-based facilities to ensure that a full continuum of services is available.**

This recommendation would require the Department to develop an objective and complete source of information for legislative consideration of the future needs of state hospitals, state schools, and state centers. The Department should develop a methodology for determining future needs of campus-based institutions based on projected membership in the priority population, levels of community services, external forces, such as managed care, and structured input from community centers. The Department should solicit the input of local authorities on the numbers of persons estimated to need institutional services, the types of services needed, and conditions that could affect the overall use of these facilities.

These changes should help TDMHMR and members of the Legislature in making more informed funding decisions for services to persons with mental retardation and mental illness.

Fiscal Impact

These recommendations would have no immediate fiscal impact. The Department would use existing staff resources to develop the required data and recommendations.

However, as a result of these recommendations, a positive fiscal impact should result in the future. The Department and the Legislature would have a better understanding of the demand for campus-based institutions and could take the necessary steps to ensure that the state's resources are being spent in the most effective and efficient way. Any savings that result should be redirected to meet community service needs.

Better information would improve funding decisions for MHMR services.

Issue 2

Establish a Forum for Strengthening the State-Local Relationship and Delivery of Services.

The role of local mental health and mental retardation authorities has expanded to include coordinating and managing the provision of services, as opposed to delivering services. The Department has struggled to define what powers, duties and responsibilities should be retained at the state level and what should be delegated to the local level. Benefits derived from delegating state power and responsibility to the local level include better identification of client needs and enhanced accountability.

- **The Department's current performance contracting process is not an effective tool to delegate power and authority to the local level.** Local authorities have difficulty meeting locally identified needs due to the performance contract's numerous requirements and fixed performance measures.
- **Problems at the local level are being addressed through an unstructured, fragmented approach.** Local authorities lack the opportunity to participate in a process that provides for structured and continuing consideration of decisions that affect local operations.

Recommendation

Change in Statute

The Commissioner should appoint a nine-member local authority advisory committee to:

- **review existing and proposed rules and requirements related to local authorities,**

- **advise the Department in evaluating and coordinating initiatives that directly affect local operations,**
- **advise and assist the Department in developing a proposal-based method of performance contracting with the local authorities, and**
- **coordinate and monitor workgroup activities whose actions may affect the future of local service delivery.**

Members of this committee should be representatives of local authorities. In appointing these members, the Commissioner should ensure equal representation from different geographic regions, rural and urban counties, and multi-county authorities. The committee should remain in existence until September 1, 2007 after which time the Department may continue the advisory committee by administrative rule.

This recommendation provides local authorities with a formal avenue of input into decisions that directly affect local operations. Before implementing a proposal-based contracting method, the Department must ensure the capacity of the local authorities to conduct a reliable local needs assessment and build a dependable local plan.

The Department should provide a response to the committee concerning any action, or reasons for inaction, taken on recommendations made by the committee.

Management Action

The Department should strengthen the connection between local authorities' plans and needs assessments, and the Department's strategic plan and performance contract.

This recommendation will ensure that the Department takes necessary steps to developing a performance contract that is based on locally identified needs and priorities. Department efforts should include committing additional staff time and resources

needed to build the capacity of local authorities to develop local plans with reliable needs assessments.

Fiscal Impact

Creation of the local authority advisory committee would have minimal fiscal impact. Existing staff resources could be used to support the committee. These resources should be available since the creation of this committee would help to streamline the activities of existing committees and workgroups and the resulting staff support needed. Travel costs for the committee should be minimal. Travel expenses of other Department committees range between \$1,200 and \$13,000 per year.

Issue 3

Strengthen the Authority of TDMHMR and TCADA to Set Standards in Mental Health and Substance Abuse Matters Affecting Other Agencies.

In Texas, mental health services and substance abuse services are the responsibility of two separate agencies. Mental health services are primarily provided by TDMHMR and substance abuse services are the primary responsibility of the Texas Commission on Alcohol and Drug Abuse (TCADA). However, many other agencies provide or purchase mental health and substance abuse services for their clients.

- **The two agencies' authority to plan for the needs of all persons with mental illness and substance abuse is unclear.** Very little formalized or coordinated planning exists for mental health and substance abuse services. As a result, the State does not have a complete picture of the needs and potential efficiencies that could be gained with increased coordination.

Local authorities should be able to affect TDMHMR's strategic planning.

- **Neither TDMHMR or TCADA has the authority to set standards, expectations, or use its expertise in mental health or substance abuse matters affecting other agencies.** As a result, the quality of care differs from agency to agency due to fragmentation and a lack of consistency in standards and performance expectations.

Recommendation

Change in Statute

Strengthen the authority of TDMHMR and TCADA to set standards and expectations in mental health and substance abuse matters affecting other agencies.

Because TDMHMR is the primary provider of mental health care, and TCADA is the primary provider of substance abuse services, other agencies and systems should draw on the expertise of these two agencies when appropriate. This recommendation would strengthen the ability of each agency to participate in the development of standards and expectations for mental health and substance abuse services provided by other agencies or systems. This recommendation would not include a transfer of funding streams, consolidation of programs, or give TDMHMR or TCADA the authority to approve the purchase of mental health and substance abuse services by other agencies.

Fiscal Impact

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

Other state agencies should rely on TDMHMR and TCADA for service standards.

Issue 4

Integrate the Delivery of Mental Health and Substance Abuse Services at the Local Level.

Parallel and separate systems of care for the delivery of substance abuse and mental health services can lead to gaps in services. No single system exists to treat the significant number of individuals who need treatment for both mental health and substance abuse disorders and consumers have to access two separate systems for treatment of interrelated problems.

Several initiatives are currently underway to determine the best structure for overseeing the purchase of mental health and substance abuse services in Texas. Both agencies are investing in the development of local administrative functions that incorporate tools of managed care and bring decision-making down to the local level.

Recommendation

Change in Statute

Integrate the service delivery structure for mental health and substance abuse services by combining administrative functions at the local level. This would include the creation of:

- **local behavioral health authorities responsible for planning for and overseeing the delivery of mental health and substance abuse services;**
- **shared training, information management, and administrative support functions;**
- **a shared approach to managing the quality of client care and access to services;**

- **a single point of entry for mental health and substance abuse services with centralized screening, intake, scheduling, and assessment; and**
- **integrated case management to coordinate the delivery of substance abuse and mental health services.**

This recommendation would strengthen the continuum of care and reduce fragmentation and administrative duplication between substance abuse and mental health services. Each agencies' local administrative and service delivery functions should be integrated into a local behavioral health authority. Integrating mental health and substance abuse service delivery would provide for a single point of entry, creating a "no wrong door" approach for consumers to access services.

Issue 5

Require TRC and TDMHMR to Reduce Duplication and Fragmentation of Employment Services.

Currently, most of the State's rehabilitation dollars are spent on employment services to help people with disabilities gain or maintain competitive jobs in their communities. Whereas one person may simply need counseling and guidance, another may require vocational or technical training. Further, individuals with the most significant disabilities may need ongoing job supports to work in a competitive integrated setting. For certain individuals with mental illness or mental retardation, both the Texas Rehabilitation Commission (TRC) and TDMHMR provide these services. This results in TDMHMR and TRC providing employment services to overlapping client populations. Agreements defining each agency's roles and responsibilities for shared consumer populations have not been fully implemented.

Recommendation

Change in Statute

Require TRC and TDMHMR to reduce duplication and fragmentation of employment services by defining each agency's role and responsibility for shared client populations, and requiring TRC to target people who are not currently receiving services from TDMHMR or another agency.

TRC and TDMHMR should continue their efforts to coordinate services for overlapping client populations, and work to fill the gaps for those individuals who currently do not receive services. Specifically, the agencies should set a realistic deadline to reach an interagency agreement defining their roles and responsibilities for shared populations and outlining ways to avoid duplication. In addition, TRC's Extended Rehabilitation Services should continue working to target persons with disabilities who do not receive services from TDMHMR, or who do not have another "home" agency.

Clients should have "no wrong door" to access substance abuse and mental health services.

Fiscal Impact

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

Issue 6

Clarify the Grounds for Renewal of Community Services Contracts.

The Legislature has clearly stated its intent that the Department move toward a system that improves the effectiveness and quality of services delivered in the community. Part of improving services is the expansion of the provider network and increasing consumer choice.

The current contract renewal statute for local authorities represents a barrier to the achievement of an improved system. Local authorities need to be able to consider the best use of state funds when renewing contracts and be held to State contracting standards.

Recommendation

Change in Statute

Change the criteria for renewal of community services contracts to conform with State contracting guidelines.

This recommendation would eliminate the existing ambiguous criteria for contract renewal and require local authorities to consider best value when considering contract renewals as required in state contracting guidelines.

Fiscal Impact

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

Issue 7

Clarify Revolving Door Provisions for Former Employees of Community Centers.

Changes in the mental health and mental retardation service delivery system of Texas include an expectation that local authorities will develop a network of providers and limit their role in providing services. To accomplish this change, local authorities must be able to recruit providers to a system with limited resources.

Former employees of community centers represent an experienced and willing source of potential service providers. However,

broadly written and ambiguous restrictions against contracting with former employees act as a barrier to accessing this source.

Recommendation

Change in Statute

Change the revolving door provisions for former community center employees to conform to the State's general revolving door provisions.

This recommendation would prohibit former community center employees from bidding on a contract they designed, but would allow them to provide similar services within their former program areas. This change conforms to general state law and would allow the community centers to fully implement a system that would meet the goals and changes expressed by the Legislature.

Fiscal Impact

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

Issue 8

Continue TDMHMR for Eight Years.

The Texas Department of Mental Health and Mental Retardation is the State's primary provider of mental health and mental retardation services. The Department provides funding and oversight to 38 community mental health and mental retardation centers. These centers are the primary providers of services in the community. The Department also operates eight state hospitals, 11 state schools, and two state centers for consumers that require in-patient services.

Local providers should not have an automatic contract renewal.

Recommendation

Change in Statute

Continue the Texas Department of Mental Health and Mental Retardation for Eight Years.

This recommendation would continue the Commission until September 1, 2007, to coincide with the Sunset review of other health and human services agencies.

Fiscal Impact

If the Legislature continues the Department, using the existing organizational structure, the Department's annual appropriation of approximately \$1.62 billion of federal and state funds in fiscal year 1999 would continue to be required for the operation of the agency.

Texas Rehabilitation Commission



Key Agency Duties

- Assists persons with mental or physical disabilities prepare for, find, and maintain employment.
- Operates programs that assist persons with disabilities who need more intensive support to obtain employment. In addition, operates other programs that are not employment related and instead focus on increasing the ability of persons with severe disabilities to live more independently.
- Determines initial eligibility for Social Security disability benefits. The agency's Disability Determination Services is wholly federally funded and operates under Social Security Administration regulations.

Appropriation for FY 1999: \$263 million

Number of Employees for FY 1999: 2,461

Statutory Reference: Human Resources Code, Chapter 111

Board Members (6)

Jerry Kane, Chair (Corpus Christi)
Ray Wilkerson, Vice Chair (Austin)
Kent Waldrep, Jr., Secretary (Dallas)
Matthew Doyle (Texas City)
Diane Novy, Ph.D. (Houston)
Beverly Stribling (San Angelo)

Agency Head: Vernon "Max" Arrell, Commissioner, (512) 424-4001.

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Texas Rehabilitation Commission



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Issue 1

Provide Better Guidance and Monitoring of TRC Counselors.

TRC's vocational rehabilitation (VR) process is designed to assist people with disabilities prepare for, find, and maintain employment. Vocational rehabilitation counselors determine eligibility, conduct rehabilitation planning, purchase or provide services to enable clients to reach their vocational goals, and monitor client progress. In fiscal year 1997, over 500 counselors in field offices throughout the state served close to 100,000 clients at a total cost of almost \$150 million.

- **Counselors must use autonomous judgment when making rehabilitation decisions.** Counselors are required to balance client choice with reasonable alternatives for vocational goals, services and service providers. Although TRC furnishes guidelines for counselors to use in rehabilitation planning, some weaknesses exist in the direction and criteria provided by the agency. TRC has not established benchmarks for counselors to use in measuring client progress.
- **Without better decision-making guidelines, TRC may be vulnerable to imprudent use of resources.** Counselors are not given direction regarding when to curtail services and may, at times, provide an unreasonable amount of services for an unjustified period of time.

Recommendation

Change in Statute

- A. Require the Commission to maintain, by rule, a framework to guide the provision of vocational rehabilitation services, including, but not limited to:**

- **how the service delivery system is organized,**
 - **requirements for determining eligibility,**
 - **requirements for rehabilitation planning,**
 - **the types of services provided through vocational rehabilitation,**
 - **requirements for client participation and comparable benefits, and**
 - **an annual assessment of the effectiveness of the State's vocational rehabilitation program.**
- B. Require the Commission to establish, by rule, requirements for agency monitoring and oversight of vocational rehabilitation counselor performance and decision making.**
- C. Require the Commission to provide guidance in key areas related to counselor performance, including:**
- **guidelines for selecting vocational objectives according to the client's skills, experience, and knowledge;**
 - **methods to ensure documentation of each client's impediment to employment;**
 - **guidelines for selecting rehabilitation services that are reasonable and necessary to achieve the vocational objective;**
 - **benchmarks for measuring client progress toward the employment outcome; and**
 - **criteria for determining eligibility for employed applicants.**

These recommendations would enhance TRC's service delivery system by providing statutory guidance as to how TRC should oversee its VR program. It would ensure long-term, continued oversight of critical elements

Counselors need better guidance on how to select services provided to clients.

of the VR process through administrative rulemaking. New rules should include a time frame for evaluating client progress and participation.

Establishing the client's impediment to employment is a key element in determining eligibility, and counselors should be required to clearly document the impediment in the rehabilitation plan. Eligibility criteria that should be more clearly defined for counselors include determining when employed applicants are in imminent danger of losing employment or are substantially underemployed.

Clearly written policy direction and decision-making criteria can be incorporated in client orientation material, and should be used to set client expectations. These improvements can be made without compromising the basic tenets of the federal program.

Management Action

A. TRC should develop and implement a reassessment plan to improve guidance, monitoring, and oversight of counselors. The plan should address:

- **revision of agency manuals and a plan for retraining of counselor staff, and**
- **a schedule for implementing improvements.**

B. TRC should submit the initial plan to the TRC Board by December 1, 1999.

C. TRC should report, on a quarterly basis, to the TRC Board on:

- **exceptional expenditures, including number of clients who have received complex physical restoration services, out-of-state services, college and graduate education, and other expensive services, and the number of cases successfully closed; and**

- **the impact of increased oversight and monitoring of the vocational rehabilitation process.**

Fiscal Impact

The requirements in this recommendation can be met with existing resources. The changes may also result in increased services to clients although precise numbers could not be estimated for this report.

Issue 2

Promote Rehabilitation Services to Texans with Severe Disabilities.

The federal Vocational Rehabilitation Act requires states to expand and improve services to people with the most severe disabilities. An estimated one million Texans are eligible for vocational rehabilitation services to obtain or maintain employment. TRC is able to serve approximately ten percent of these individuals. Advocates believe that the State's vocational rehabilitation system is designed in a way that impedes agency efforts to seek out and serve individuals with severe disabilities.

Recommendation

Management Action

- A. TRC should work to address the increasing need for VR services in the state, and improve outreach efforts, particularly to people with severe disabilities.**
- B. TRC should work with the Legislative Budget Board and the Office of the State Auditor to accurately measure**

TRC should work to provide VR services to persons with severe disabilities.

how well the agency serves people with severe disabilities in its Vocational Rehabilitation program.

- C. TRC should take steps to improve documentation and coding of case files for clients with severe disabilities.**
- D. TRC should involve its Rehabilitation Council of Texas and advocates for people with disabilities to determine how the agency can continue to expand and improve vocational rehabilitation services to people with severe disabilities.**

These recommendations would allow TRC to continue serving all eligible vocational rehabilitation clients, while addressing the perception that the system does not promote services to people with severe disabilities. Involving the Rehabilitation Council of Texas and other advocates would ensure their ongoing and active participation in the agency's efforts to promote services to people with severe disabilities.

Fiscal Impact

These recommendations would have no fiscal impact to the State. The management actions can be done by existing staff with existing resources.

Issue 3

Improve Vocational Rehabilitation Services to Students with Disabilities.

Transition planning is a process that helps students with disabilities prepare for their life after leaving school. The transition process could involve learning about and preparing for postsecondary education, vocational training, adult services, independent living, community participation, or recreation and leisure opportunities.

Responsibility for initiating and guiding the transition process rests with the student's school. TRC is one of several entities that may participate in the process. In fiscal year 1997, TRC served 3,570 students through its transition planning program.

The Legislature has recognized the need for transition planning and the importance of TRC's participation in the transition process. However, TRC's current policy guiding transition planning does not ensure the effectiveness of the agency's role in transition planning. In addition, focusing assistance early on students with disabilities may prevent those who are most at risk from becoming dependent on the State for public assistance.

Recommendation

Change in Statute

Require TRC to develop and implement a system that effectively emphasizes and provides transition planning services. TRC's approach should:

- **assess the need for the agency's transition planning services statewide,**
- **ensure that students with disabilities and the transition planning program receive an appropriate level of attention, and**
- **develop strategies to assist counselors in identifying and reaching students with disabilities in need of transition planning services.**

This recommendation would direct TRC to better define and expand its current efforts in the area of transition planning by developing clear objectives for serving students with disabilities and methods for meeting those objectives. Identifying potentially eligible students before they leave school will help students begin preparing for their future vocational life. Not only would this assist

Transition planning for students with disabilities needs more emphasis statewide.

students in leading more independent lives, it could potentially save the State dollars that might otherwise be spent to support these students.

Management Action

TRC should work to improve its internal policies on transition planning by:

- **revising policy and training to increase consistency of counselor performance, and**
- **exploring ways to accommodate the time-intensive nature of transition cases when evaluating counselor performance.**

Fiscal Impact

This recommendation should have only a small cost. The agency may need to ensure adequate training of counselors and resources to build relationships with school districts. However, any cost would be offset by moving students into the workforce earlier.

TRC and TDMHMR should ensure that shared client populations are better served.

Issue 4

Coordinate Employment Services to People with Disabilities through TRC, TDMHMR, and TWC.

Currently, most of the State’s rehabilitation dollars are spent on employment services to help people with disabilities gain or maintain competitive jobs in their communities. Whereas one person may simply need counseling and guidance, another may require more extensive vocational or technical training. Individuals with significant disabilities may also need ongoing job supports to work in a competitive integrated setting. Sunset examined the delivery of these services and found two key areas of concern.

- **The Texas Department of Mental Health and Mental Retardation (TDMHMR) and the Texas Rehabilitation Commission (TRC) provide employment services to overlapping client populations.** TRC’s Extended Rehabilitation Services program serves consumers who are eligible for TDMHMR services. Agreements defining each agency’s roles and responsibilities for shared consumer populations have not been fully implemented.
- **Limited coordination exists between employment services for people with disabilities and Texas’ workforce development system.** The workforce development system, comprised of the Texas Workforce Commission (TWC) and a network of local boards, provides comprehensive employment services to the general population. TRC does not formally refer Vocational Rehabilitation clients into the State’s workforce development system and TWC does not track or report the number of people with disabilities that the agency serves. This situation leads to duplication and fosters segregation of people with disabilities. Many TRC clients could benefit from TWC’s job training and job search services resulting in the availability of more services for VR clients.

Recommendation

Change in Statute

- A. Require TRC and TDMHMR to reduce duplication and fragmentation of employment services by:**
- **defining each agency’s roles and responsibilities for shared client populations, and**
 - **requiring TRC to target people who are not currently served by TDMHMR or another agency.**

These changes would ensure that TRC and TDMHMR define their roles and responsibilities for shared populations, outline ways to avoid duplication, and work to target people with disabilities for whom needed services are not available.

B. Require TRC to refer appropriate VR clients to Local Workforce Centers, and require TWC to track and report services provided to people with disabilities.

While certain TRC clients need more extensive or specialized job supports, many others could benefit from the general workforce system’s job training and job search services. This change would help mainstream many people with disabilities into TWC’s general programs and reserve TRC’s services to those with more specialized needs.

Fiscal Impact

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

Issue 5

Strengthen Standards for Approving Medical Services for Clients.

Most of TRC’s almost 100,000 clients have significant medical problems. Many clients require medical or hospital care as part of their vocational rehabilitation. Approximately 12,000 TRC clients have a back injury as a part of their disabling condition. Each year, TRC spends approximately \$50 million for medical and hospital services. TRC clients receive numerous complex medical procedures, including back surgeries, abdominal and thoracic surgeries, cardiovascular surgeries, and knee and hip repair.

Recommendation

Change in Statute

- A. Require TRC to meet health care industry standards in the approval of medical services for clients, including the use of second opinions.**
- B. Require TRC, in conducting system of quality control that includes medical consultation, to follow standards applied to private insurers, as outlined in the Texas Insurance Code.**
- C. TRC should ensure that, where applicable, approval of medical services includes an assessment of whether the procedures will benefit the client’s ability to return to work.**
- D. TRC should conduct an analysis of the risk associated with funding medical procedures and develop a plan to manage the potential liability.**

TRC’s approval of medical procedures should be in line with industry best practices.

These changes would strengthen TRC’s decision process regarding the funding of medical services and complex and invasive medical procedures, and would bring the agency in line with common best practices used by the health care industry. Decisions to purchase complex medical services and procedures should include the use of second medical opinions, where appropriate; determination of whether the services will likely benefit the client’s return to work; and a utilization review of medical necessity and appropriateness conducted by qualified individuals. TRC should consult with the Texas Workers’ Compensation Commission, the Texas Department of Insurance, and other experts to assist in identifying and applying industry standards to each of the decision areas described above.

TRC also needs to manage the risk of liability that results from its medical services funding decisions. The agency needs to identify where it and the State could be held

responsible when harm to a client results from actions authorized and paid for by the State. The agency should then develop a plan to minimize those risks and establish procedures to be followed when negative outcomes create risk. This plan should be communicated to counselors and other staff involved so that the agency is ready to respond, if needed.

Fiscal Impact

These recommendations would result in a savings to the state. The recommended utilization review, second medical opinions, and functional assessments are all standard insurance industry practices that reduce costs. TRC will spend approximately \$50 million on physician and hospital services during fiscal year 1998. Assuming a five percent savings, beginning in the second year of implementation, TRC should realize a savings of \$2.5 million per year. Such savings would be partially offset by additional costs for physician second opinions and other case review services, estimated at \$500,000 per year.

A risk management plan would also reduce actual and potential agency costs through avoidance of potential legal claims, but the savings from such a plan cannot be estimated.

Issue 6

Develop Rate-Setting Methodology with Public Input and Tie to Established Rates for Medical Services.

The agency's Maximum Affordable Payment Schedule (MAPS) sets the maximum amounts that the agency will pay for medical services. The Sunset review looked at the rate-setting process used by TRC including

recent changes, and the amounts paid by TRC for services compared to amounts paid by other agencies.

- **TRC has not established policies for setting the rates it pays for medical services.** TRC has not adopted policies that direct its rate-setting activities, even though agency rules require such policies.
- **TRC's rate-setting process does not provide for sufficient public input and consideration.** TRC's Board does not use an open, public process to set rates. Rates are set by agency staff and are not discussed in public.
- **TRC rates are not tied to any established rates, such as Medicaid and Medicare rates, which are generally lower than TRC rates.** TRC should only vary from these rates when services are not available at the lower rate.

Recommendation

Change in Statute

- Require the TRC Board to establish its rate-setting methodology for all rates by agency rule.**
- Require the TRC Board to solicit public comment regarding proposed rates and adopt all final rate setting methodologies in a public meeting.**
- Require the TRC Board, when adopting a rate schedule to:**
 - **review a comparison of the proposed rate schedule to other cost-based rates for medical services, including Medicaid and Medicare rates; and**
 - **document why any TRC rate must exceed the Medicare or Medicaid rate for the service to ensure best value in the use of dollars for clients.**

TRC needs to fundamentally change its method for setting service rates.

This recommendation would require TRC to fundamentally change its method for establishing rates paid for services. Development of a complete schedule of rates for medical services is unnecessary because Medicare and Medicaid already develop cost-based rate schedules. TRC should rely on these established rates, which are generally lower than TRC rates, to set a base for its own rates, and should vary from these rates only when services are not available at the lower rate.

Fiscal Impact

Both Medicaid and Medicare maintain complete cost-based medical fee schedules that could be used as a basis for paying TRC providers. On the average, Medicare maximum or “limiting charge” rates are approximately 10 percent lower than the rates set in TRC’s Maximum Affordable Payment Schedule. Consequently, use by TRC of even the highest Medicare fee would reduce TRC costs for medical services by 10 percent, or approximately \$3 million per year.

Issue 7

Reduce Purchasing Costs by Ensuring Compliance with Best Value Procurement Practices.

TRC’s approach to selecting service providers, other than medical services, most closely resembles an enrollment method. Vendors apply to be placed on the agency’s approved vendor list, then counselors work with clients to select a vendor from the approved list.

- **TRC does not ensure best value purchasing when buying services for clients.** Even though TRC rules state that the agency will use competitive purchasing methods whenever possible, TRC counselors do not comply with best value

requirements to obtain competitive bids when buying services for clients.

- **TRC could improve its best value purchasing by negotiating high-volume discounts, pooling purchases with other agencies and using state contract vendors.** TRC could further reduce costs by negotiating discounts with its high-volume vendors.

Recommendation

Change in Statute

Require TRC to implement agency-wide procurement procedures to:

- **comply with statutory requirements for best value purchasing of services bought for clients,**
- **document that a best value review of vendors has occurred and document the reason for selecting a vendor;**
- **negotiate price discounts with high-volume vendors;**
- **consolidate purchases with other agencies, including the Texas Department of Health and General Services Commission, to achieve best value; and**
- **provide effective public notification to potential vendors of planned TRC purchases.**

These changes would require TRC to develop a competitive, formal, documented, and auditable process for choosing vendors. A best value approach to purchasing would require the agency to document why vendors are selected, but would still permit client choice to influence the decision. The approach to, and schedule for, implementing the recommendations should be reviewed and approved by the TRC Board to ensure that compliance is not postponed.

TRC should reduce costs by negotiating high-volume discounts.

Fiscal Impact

These recommendations should result in reduced agency costs for goods and services purchased from high-volume vendors. This amount cannot be estimated, but would more than offset any minimal costs for conducting competitive procurements and providing increased documentation.

Issue 8

Ensure TRC Fully Explores All Other Sources of Funding for Services for Its Clients.

Federal law and TRC rules require TRC counselors to attempt to locate other funding sources to pay for vocational rehabilitation services before TRC funds can be used. The Sunset review sought to determine if TRC effectively complies with requirements that would conserve TRC funds when other sources of funding are available.

- **TRC does not verify client financial information before purchasing rehabilitation services for its clients.** During the client intake process, TRC counselors ask clients about living expenses and income, but rarely ask for documentation. TRC counselors state that clients are on an “honor system.”
- **Although TRC has adopted policies that require clients to participate in the cost of their services, clients rarely share any of the costs.** A review of clients files did not identify any instance where clients actually shared in the costs of services.
- **Clients are not required to seek services from other payers before receiving TRC services.** Despite the likelihood that many TRC clients are jointly eligible for services, Sunset review of TRC files showed that TRC counselors rarely refer clients to other services, that clients ap-

TRC's limited funds should be reserved for clients with no other resources.

plied or sought the service, or that the request for comparable service was denied.

Recommendation

Management Action

TRC should implement the following actions to ensure compliance with State and federal requirements that TRC exhaust all other sources of funding before paying for rehabilitation services.

- **Require TRC clients to attest in writing that their statements regarding financial assets, income, and expenses are complete and accurate.**
- **Inform clients that failure to provide complete and accurate financial information is a violation of Texas law.**
- **TRC should establish and monitor counselor performance objectives related to documenting, in the clients' individual written rehabilitation plan, that clients have sought comparable benefits.**
- **TRC should limit the dollar amount of services that may be authorized by a counselor without documentation of client income and expenses, and documentation that the client has sought comparable services from other programs for which the client appears to be eligible.**
- **This recommendation applies to all of TRC programs, not just vocational rehabilitation.**

These changes would help ensure that TRC's limited funds are reserved for clients who have no other resources. Clients who have resources, and can pay for private rehabilitation services would be required to contribute an appropriate, and relatively modest, amount toward their rehabilitation

services. In addition, clients would be diverted to other funding sources, including Medicaid and Medicare.

Fiscal Impact

This recommendation would result in a positive fiscal impact to the State. The automated capability to verify Medicaid eligibility, coupled with the requirement that potentially eligible clients seek Medicaid services before receiving TRC services, could significantly reduce the medical services purchased by TRC. However, the extent that costs could be reduced would depend on TRC's approach to implementing these changes and could not be estimated for this report.

Issue 9

Clarify the Powers and Duties of the TRC Board and Commissioner.

The enabling legislation of most health and human services agencies is similar in that boards are given policymaking authority and authorized to employ a Commissioner, who employs staff. Most statutes also require the Board to adopt policies that clearly define the respective responsibilities of the Board and the staff of the agency.

- **The TRC statute does not clearly define the powers and duties of the TRC Board.** Sharing responsibility for policy direction of the agency between the Board and Commissioner blurs the line between setting policy and administration.
- **The current approach to setting the agency's policies limits public involvement.**

The TRC Commissioner has much of the responsibility to set policy guiding the agency's operations. The public, advocates, and advisory committees do not have any direct interaction with the TRC Board.

Recommendation

Change in Statute

A. Clarify the powers and duties of the TRC Board, including clarifying authority to adopt rules.

These changes would clearly define the respective responsibilities of the TRC Board, the Commissioner, and the staff. The statute should specify the Board has the responsibility to adopt rules that guide each of the agency's major responsibilities. The statute should be clarified to ensure that the powers and duties assigned to the Commissioner are subject to Board approval. Any delegation of the Board's authority should be adopted by the Board in a public meeting.

B. Require that the TRC Board re-adopt rules on its advisory committees to ensure that the advisory committees report to the Board.

By January 2000, the TRC Board should re-adopt its rules to ensure that all of its advisory committees report to the Board. This change would ensure that the Medical Consultation, Community Rehabilitation Programs, Comprehensive Rehabilitation, and Deaf-Blind Advisory Committees have a direct link to the policy making body and not to the Commissioner. The advisory committees would continue to work with the Commissioner and staff as appropriate.

Management Action

A. Require TRC's advisory committees to report to the Board, in a public meeting, on their activities at least once each year. Require the Texas Rehabili-

The TRC Board, not the Commissioner, should set policy for the agency.

tation Council of Texas to appear before and report to the Board at least twice a year.

This change would help ensure that the critical work of the advisory committees is shared with the Board at least once a year. This is especially important for the Texas Rehabilitation Council of Texas that is required by federal law to advise TRC on the scope, eligibility, and effectiveness of services provided by the agency.

B. The TRC Board should adopt rules that clearly define the roles and responsibilities of the Board, the Commissioner, and the staff.

This recommendation would ensure that the Board reviews its rules on this subject, assigns responsibilities to the Commissioner, and clarifies which actions require Board approval.

Fiscal Impact

These changes would have no fiscal impact to the State.

Issue 10

Require the Texas Rehabilitation Commission to Post Agency Reports and Performance Data on the Internet.

Like most state agencies, the Texas Rehabilitation Commission maintains a site on the World Wide Web. The Commission provides a wide range of information on the agency's programs for consumers and the general public. However, not all of the agency's performance data is available on its web page. Internet technology has become increasingly accessible to the public in the past several years and Internet access is especially important to TRC's clients. TRC

serves a large number of clients with disabilities who may not be able to locate agency information in other, more traditional formats.

Recommendation

Change in Statute

Require the Texas Rehabilitation Commission to make agency reports and performance data available on the agency's web page.

Requiring TRC to post its agency reports and performance data on the Internet would ensure that consumers and the general public would have access to pertinent data concerning TRC operations.

Fiscal Impact

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

Issue 11

Determine Why Texas' Denial Rate for Social Security Disability Determination is Higher than the National Average.

The federal Social Security Administration operates two programs that provide direct income assistance to persons with severe disabilities. Social Security Disability Insurance (SSDI) provides cash benefits to workers with severe disabilities and their dependents. Supplemental Security Income (SSI) provides financial assistance to persons with disabilities who do not have enough Social Security payroll deductions to qualify for SSDI, and whose income and resources fall below a certain level. In a typical month, over half a million Texans receive

approximately \$280 million in federal cash assistance through the SSDI and SSI programs. In addition, persons eligible for SSDI also qualify for Medicare and persons eligible for SSI receive Medicaid.

TRC operates the State's Disability Determination Services (DDS) Unit, which makes eligibility determinations for SSI and SSDI claimants. Texas is a part of Region VI, which also includes Arkansas, Louisiana, New Mexico, and Oklahoma. Individuals who believe they are eligible for Social Security disability benefits begin by filing an initial claim with their local Social Security office. This local office then forwards the claim to TRC's DDS Unit.

Recommendation

The Sunset Commission requests that the State's Leadership, through the Office of State-Federal Relations, inquire of the Social Security Administration as to:

- **reasons why Texas' current denial rate for disability determinations, and that of its Social Security region, exceeds the national average;**
- **reasons why many of the initial denials are subsequently overturned upon appeal; and**
- **what steps may be taken to ensure that Texas citizens receive the disability benefits to which they are entitled.**

The Social Security Administration is responsible for disability determination and paying of benefits. The Sunset Commission asks the State's Leadership—the Governor, Lieutenant Governor, and the Speaker—to intervene at the federal level to protect the interests of the State's citizens. The Office of State-Federal Relations (OSFR) in Washington D.C. represents the State at the federal level and is in a position to help with this inquiry. Texas deserves answers to these

questions, which could ultimately lead to changes in the determination process. TRC would need to play a role as well, providing the State Leadership and OSFR with the information necessary to carry out this request.

Fiscal Impact

This request would not result in any cost to the State. However, if successful at the federal level, the State could increase the number claimants approved for disability benefits, and thereby increase the level of federal funds coming into Texas for SSI and SSDI.

Issue 12

Continue the Texas Rehabilitation Commission for Eight Years.

The Texas Rehabilitation Commission is the State's primary provider of vocational rehabilitation services. TRC assists persons with disabilities to obtain or regain employment. TRC is also responsible for performing the initial eligibility determination for applicants of Social Security Disability Insurance. Finally, TRC operates several small programs to assist with the rehabilitation of persons with disabilities.

Recommendation

Change in Statute

Continue the Texas Rehabilitation Commission for Eight Years.

This would change TRC's Sunset date to September 1, 2007 and maintain the link between the review of TRC and other health and human services agencies.

Texas deserves to know why its citizens are not receiving their fair share of federal benefits.

Fiscal Impact

If the Legislature continues the current functions of the Rehabilitation Commission, using the existing organizational structure, TRC's current annual appropriation of approximately \$263 million in fiscal year 1999 would continue to be required for the operation of the agency.

Center for Rural Health Initiatives



Key Agency Duties

- Plans, coordinates, and advocates for continued access to rural health care.
- Administers scholarship and forgivable loan programs that assist in the recruitment of health professionals to rural communities.
- Promotes telemedicine and distance learning.
- Conducts an annual health professional recruitment fair.

Appropriation for FY 1999: \$1.7 million

Number of Employees for FY 1999: 12

Statutory Reference: Health and Safety Code, Chapter 106

Executive Committee (9)

Richard Murphy, Chair (Port Lavaca)
Vernon C. Farthing, Jr. (Lubbock)
C. Alvin Jones (Beaumont)
Gordon K. Lee (Wortham)
Conny M. Moore (Borger)
Myrna R. Pickard (Arlington)
Timothy Allen Scroggins (Salado)
Faye Rainey Thomas (Katy)
Vacant

Agency Head: Robert "Sam" Tessen, Executive Director, (512) 479-8891

Recommendations

1. Continue the Center for Eight Years, but Restructure its Executive Committee, and Require a Clear Work Plan for Helping Rural Communities 127

Issue 1

Continue the Center for Eight Years, but Restructure its Executive Committee, and Require a Clear Work Plan for Helping Rural Communities.

In 1989, the Legislature created the Center for Rural Health Initiatives to assist rural communities in maintaining access to health care services for its citizens. The statute requires the Center to proactively lead and coordinate governmental efforts aimed at solving rural health problems, such as shortages in health professionals and inadequate emergency medical services.

The Center is directed by a nine-member Executive Committee with the Governor, Lieutenant Governor, and Speaker of the House appointing three members each. Members of the Executive Committee must be individuals who reside, work, or practice in rural areas of the state or have demonstrated knowledge and expertise in rural issues.

- **The Center has not met the challenge to proactively address the health care problems facing rural communities.** Although the Center has been a valuable resource to communities seeking health care professionals, the Center does not have an action plan in place, or in some cases the expertise, to assist communities in facing other health care challenges.
- **The statute does not ensure that Executive Committee members come from rural areas.** The statute permits individuals from non-rural communities, with demonstrated knowledge and expertise in rural issues, to serve on the Executive Committee. However, the recent implementation of this provision has had the unintended consequence of having the Executive Committee dominated by

members who do not either work, reside, or practice in rural areas.

- **The semi-independent operation of the Center within TDH has resulted in administrative inefficiencies and little use of TDH's resources.**
-

Recommendation

Change in Statute

- A. Continue the Center for Rural Health Initiatives within the Texas Department of Health for eight years.**
- B. Restructure the Center's Executive Committee by:**
 - **specifying that the Governor shall make all appointments to the Executive Committee,**
 - **removing the requirement for specific positions to represent certain professions,**
 - **requiring at least six members to be selected from the list of health professions currently listed in statute,**
 - **requiring three members to be locally-elected officials or have significant business expertise,**
 - **requiring the majority of the Executive Committee membership to work or reside in counties with a population of 50,000 or less, and**
 - **adding a physician assistant to the list of health professions the Governor must choose from when appointing members to the Executive Committee.**

The Center needs more rural expertise on its Executive Committee.

These changes would ensure that rural citizens have a greater voice in agency policymaking and programs designed to address the health care needs of rural communities. These changes would also

allow the Governor the flexibility to draw upon the expertise of a broad array of health professionals when making appointments to the Executive Committee.

C. Require the Center's Executive Committee to enter into a formal agreement with TDH for staff and administrative support services necessary to maintain the functions of the Center.

This change would allow the Center to reduce administrative costs and direct more of its funds to rural health care services.

D. Require the Center to work jointly with TDH and other health and human services agencies, rural communities, universities, and health care providers to develop a comprehensive rural health work plan. At a minimum, the statute should require the work plan to include the following elements:

- **the mission, goals, and objectives of how the Center will work to assist rural communities in meeting rural health needs;**

- **methods for the State to effectively and creatively address unmet health care needs of rural communities;**
- **coordination of administration and service delivery with federal, state, and local public and private programs that provide similar services; and**
- **the Center's priorities for accomplishing the objectives of the plan.**

This change would improve the planning and coordination of health care services with health and human services agencies. The rural health work plan would also provide a forum to communicate the mission and goals of the Center, determine the objectives for rural health care delivery, and recommend statewide policy in key areas.

Fiscal Impact

If the Legislature continues the current functions of the Center for Rural Health Initiatives, using the existing organizational structure, the Center's annual appropriation in fiscal year 1999 of \$1.7 million would continue to be required for operation of the agency.

The Center needs to develop a comprehensive rural health plan.

Office of the Attorney General
Child Support Division

Office of the Attorney General Child Support Division



Key Agency Duties

- Receives and disburses child support payments primarily for families on, or formerly on, welfare. Currently has approximately 1.14 million cases.
- Provides services to locate absent parents to establish or enforce payment of child support.
- Establishes paternity when necessary to obtain court orders for child support.
- Establishes child support in court and begins collection proceedings through employer wage withholding or direct payments to the Child Support Division.
- Takes enforcement action when non-payment of child support occurs.
- Operates the State's new-hire reporting system to assist in obtaining child support for children.
- Responsible for implementing all child support related provisions of federal welfare reform (PRWORA).

Appropriation for FY 1999: \$152.4 million

Number of Employees for FY 1999: 2,327

Statutory Reference: Family Code, Title 5, Subchapter D

Board Composition: None

Agency Head: John Cornyn, Attorney General

Howard Baldwin, Deputy Attorney General for Child Support
(512) 460-6122

Recommendations

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INTRODUCTION

House Bill 3281, passed in 1997 by the 75th Legislature, placed the Attorney General's child support operations under Sunset review. The legislation required the Sunset Advisory Commission to select an independent firm with experience in evaluating government programs to conduct a comprehensive analysis of the structure, efficiency, and effectiveness of the child support operations. The bill also required the firm to evaluate whether child support operations should remain as part of the Attorney General's Office (OAG), be privatized, or be transferred to an independent state agency.

The Sunset Advisory Commission retained David M. Griffith and Associates (DMG) to perform the analyses described above. DMG began its work in March 1998 and spent the following six months performing the research and analyses required in the Sunset Commission's Request for Proposal. DMG issued the report in October, 1998.

Based on the DMG report and additional recommendations developed by Sunset Commission staff, the following recommendations were adopted at the Sunset Commission's January 1999 meeting. The Commission decided to divide the recommendations into two phases.

The first phase contains statutory recommendations to be included in the introduced version of Sunset legislation on the Child Support Division. Phase One also includes management recommendations that the Sunset Commission and OAG believe should be implemented immediately to assist the cleanup of child support operations.

The second phase contains management recommendations that, while important, would be started later to allow the OAG time to first focus on improving basic operations. Action on these management recommendations is not expected to begin until after July 1, 1999.

Due to the development of this material by an independent contractor, the format of the information differs slightly from the rest of this report, which is based on material prepared by Sunset Commission staff. Further detail is available upon request, or by obtaining the David M. Griffith and Associates report or the Sunset Staff Analysis of the Griffith report. Both of these documents are available from the Sunset Commission, or can be read on the Commission's website, <<<http://www.sunset.state.tx.us>>>.

PHASE ONE

Statutory Changes Needed to Improve Operations of the Child Support Division.

1. **Retain the child support program in the Office of the Attorney General (OAG) for a two-year “probationary” period. Four determining factors should be used to decide whether OAG has successfully re-engineered and revived the program:**

- **Significant improvement in performance,**
- **Resolution of computer system implementation issues,**
- **Compliance with federal welfare reform mandates, and**
- **Significant improvements in customer service and client satisfaction.**

Require the Child Support Division to report on the above criteria to the Sunset Commission and appropriate legislative committees no later than October 15, 2000. Also require the Sunset Commission to perform a compliance and status review and report to the next session of the Legislature.

The Child Support Program has experienced significant performance and managerial problems. This recommendation would provide the new Attorney General a two-year opportunity to put in place changes necessary to improve the primary facets of child support operations. The Sunset Commission would monitor and evaluate the OAG's progress and make recommendations regarding the need for further structural or operational changes.

2. **Mandate the state agencies involved with the child support program (Department of Human Services, Texas Department of Health, Department of Protective and Regulatory Services, Texas Workforce Commission, and Comptroller's Office) to participate in the development of a new statewide interagency partnership strategy. Establish a standing child support executive workgroup to address coordination of efforts, data exchange, and to explore opportunities in:**

- **contracting to provide child support services related to an agency's core functions,**
- **improving intake and client referral functions,**
- **enhancing foster care child support collection,**
- **increasing recovery of Medical Assistance (Medicaid) through child support collections, and**
- **the receipt and payment of child support by the State Comptroller or by a private company.**

The Health and Human Services Commission should be included when issues related to its area of oversight are to be discussed.

This recommendation would reduce duplication by evaluating the benefits of contracting with other state agencies to provide related services. The ongoing interagency workgroup would also create a mechanism to raise and address problems that prevent effective collection and distribution of child support.

3. **Establish a permanent process for a County work group to be integrally involved in the Child Support Division's development of program initiatives that affect counties.**

Continue the Child Support Program at the Attorney General's Office for two years.

The County work group would, at a minimum:

- establish a state/county child support improvement plan by January 1, 2000;
- assist in developing rules for the State Disbursement Unit (SDU);
- plan for monetary incentives for county partnership programs;
- help to expand the number of agreements with counties for enforcement services; and
- work with relevant statewide associations on a model partnership agreement.

4. Report to the Legislature on the progress and impact of privatization initiatives.

The report should be transmitted to the appropriate legislative committees and the Legislative Budget Board by December 1, 2000. Additional reports should be submitted when any further substantial privatization occurs.

5. Require the Child Support Division to establish an Information Resources Steering Committee composed of senior level executive management representing all significant functions of the Division.

Information technology problems can prevent the Division from achieving its core task of obtaining and sending child support to children and families. Several recent computer development problems may have been avoided by ensuring all users of the systems have a voice in ensuring that systems are workable and practical.

6. Require the DHS/OAG interagency agreement to set timeliness and data exchange standards for information needed by the Child Support Division to establish child support.

The Department of Human Services and the OAG must cooperate extensively to provide child support services to clients on Temporary Assistance for Needy Families (TANF). However, the current agreement between these two agencies is out-of-date and does not address key issues. The agreement should be revised. The agencies should also delineate standards to ensure that TANF recipients that fail to cooperate or comply with OAG requirements are quickly sanctioned (TANF benefits are reduced).

7. Require the Child Support Division to maintain and report data sufficient to evaluate the use and effectiveness of all tools available to enforce child support.

8. Modify Texas law to provide that a man who voluntarily signed a paternity acknowledgment or birth certificate would be considered the legal father for child support purposes without an additional court-established paternity order.

Currently, the OAG must go to court to establish paternity for child support purposes for fathers who have already acknowledged their parenthood. This requirement causes delays in obtaining child support for children and uses valuable court time. The recommendation, however, would also ensure that the person would retain the right to dispute paternity through the courts.

9. Require the Child Support Division to conduct a cost-effectiveness evaluation of alternative sources of revenue, including fees, and report to the Legislature and the Sunset Commission by July 1, 2000.

As the number of TANF cases declines, federal funding is also expected to decline. The division should examine alternative sources of revenue to replace these reduced funding levels.

Use an ombudsman to coordinate complaint handling.

10. Institute and publicize a single complaint system that responds to, tracks, and helps resolve client complaints.

This system should summarize and analyze complaint data for both management analysis and reporting to the Legislature. In addition, the Division should establish an ombudsman program to effectively handle difficult or long-standing problems and to coordinate complaint handling in local offices.

11. Require the Child Support Division to provide a statewide toll-free customer service line to employers.

Employers, who provide wage-withholding services for the State, must compete with all other callers when obtaining information necessary to provide the State this service. A separate telephone access point should be provided to employers in need of specialized information.

Management Actions to be Pursued Immediately to Provide Effective Payment of Child Support.

12. Establish a work group to evaluate the recommendations of the Attorney General's Office and DMG to change from judicial to administrative processing of child support. The group should also examine the IV-D Masters program and make recommendations regarding streamlining the judicial process for child support cases.

The work group includes OAG staff, experts in administrative law, experts in family law, IV-D Masters, District Court Judges, District Clerks and legislative staff. In general, the work group should recommend changes to minimize duplication, ensure due process and

quicken the payment of child support to families. The group must develop a specific approach that:

- proposes how modification of child support orders issued by a court should be accomplished;
- protects the due process rights of individuals in the system;
- clearly addresses where issues of custody, visitation and enforcement for child support cases should be resolved;
- ensures workloads of district courts are not significantly increased as a result of process changes;
- addresses oversight, effectiveness and consistency of the IV-D Masters program;
- incorporates improvements to service of process requirements;
- evaluates and incorporates elements of DMG and OAG proposals determined to be appropriate and workable; and
- includes new ideas and approaches developed by the work group, if necessary.

The OAG should report the findings and recommendations of the group to the Legislature no later than February 15, 1999.

13. Improve information technology operations.

A. Resolve, not later than May 1, 1999, the child support computer system's (TXCSES) ability to correctly identify and code TANF and Medicaid cases referred to child support enforcement as "public assistance" or "non-public assistance."

Incorrect coding has weakened the OAG's ability to interact with the Department of Human Services and the Department of Health to ensure that child support collections are correctly distributed.

Work to streamline judicial processing of cases.

B. Improve effectiveness of systems operation, planning, and development by consolidating all systems activities into a system under the direction of a qualified Information Resource Manager, not later than March 1, 1999.

C. Develop a plan by April 1, 1999 to enhance user response time and improve batch processing of child support payments.

14. Develop an action plan to improve the Division's process for receipt and distribution of child support payments.

Significant delays have been reported in the processing of child support payments. The OAG should present a budget and schedule to implement processing improvements to the House Appropriations Committee and the Senate Finance Committee by February 15, 1999.

PHASE TWO

Management Actions Needed Over the Next Two Years.

Phase Two consists of management actions that would be taken during the next two years. To provide time for the OAG to prioritize and take action on Phase One, and any other changes needed, implementation of these management actions is not expected to begin until July 1, 1999.

15. Improve central office operations.

A. Examine decentralizing appropriate Division functions and downsizing the central office by developing an outsourcing plan, a decentralization plan, and analyzing central office staff reduction possibilities.

B. Strengthen administrative monitoring of the child support program by enhancing the Program Monitoring Unit's capabilities and implementing a self-assessment process that will satisfy federal requirements.

C. Redesign the internal agency reporting system to shift the current administrative monitoring focus from outputs to effectiveness, efficiency and customer service.

16. Examine privatization opportunities including:

- **awarding a contract to a private vendor to operate one or more local offices,**
- **contracting with a private vendor to perform collections on delinquent accounts to increase efficiency and capacity,**
- **outsourcing payment processing to a qualified vendor that can provide the resources and automation needed to process large volumes of payments, and**
- **using a payment processing contractor to generate child support payment checks.**

17. The Child Support Division should expand the Bexar County cooperative partnership model to at least one other county during the 2000-2001 biennium.

Under this model, the Division contracts with a county for many of the child support services currently handled by local OAG child support offices.

The OAG should examine privatization opportunities.

Downsize the central office and improve the field offices.

18. **Establish a Contracts Management Group within the Child Support Division to develop contract monitoring standards and to monitor compliance with existing and future contracts.**
19. **Improve the statewide management of legal resources.**

Restructure the area special counsel and managing attorney positions to better define their management versus legal roles in the operations of local offices.

20. **Reengineer field office business processes, develop a model field office program, and restructure field office jobs consistent with the model field office program.**
21. **Adjust the TXCSES computer system to better meet the needs of child support workers.**

- A. **Review the functionality of the TXCSES computer system to automate many of the tasks currently being performed manually by a Child Support Officer.**
- B. **Program TXCSES to re-automate the license suspension process, including the ability to:**
 - **identify when payments are not received and cases become delinquent,**
 - **automatically send quarterly license suspension notices to delinquent obligors, and**
 - **match driver's license and professional license databases with delinquent obligors.**

Prior to the implementation of the new TXCSES computer system in 1997, the former child support computer system performed the tasks described above with considerable success. This capability should be restored.

22. **Improve the Child Support Division's capabilities to locate absent parents for collection of child support.**

- A. **Request formal clarification on federal requirements for unproductive checks on data sources during the automated locate process.**

This action would be accomplished by submitting a Policy Inquiry Question (PIQ) to the federal government for clarification of their policy. The review identified steps taken by child support workers in the locate process that were often unproductive, but were believed to be required by federal policy. These steps should be eliminated if not specifically required.

- B. **Identify counties where the automation of county records to allow on-line access for computerized locate searches would be most cost-effective, and when feasible, seek federal funding to defray the costs of establishing such access.**
- C. **Integrate utility and phone company records into the data sources accessible through the automated locate process, and more aggressively pursue such records at the local level by exercising existing statutory authority.**
- D. **Use existing authority to gain on-line access to Department of Public Safety (DPS) drivers license records.**

23. **Enhance training of child support workers in the following areas:**

- **locating absent parents by using improved on-line and phone inquiry techniques,**

Quicken the paternity establishment process.

- effectively using the established administrative and judicial procedures to encourage and reach stipulated agreement between the parties, and
- effectively using each enforcement tool available to the Division.

24. The Child Support Division should fully participate as a member of the Judicial Committee on Information Technology.

This committee is statutorily charged with developing a statewide computer system for court information. The Division would be a key user of such information and should be involved in the planning activities.

25. Provide alleged fathers served with a notice for a paternity establishment hearing the option of voluntarily submitting to paternity testing at the State's expense and avoiding attendance at a hearing.

For those alleged fathers willing to take a paternity test, a court hearing should not be necessary. This change would also speed the paternity establishment process.

26. Improve the Child Support Division's customer service efforts by:

- allowing the voice-response telephone system to forecast when a child support check will be sent to a custodial parent once received by the system;
- programing the computer system to notify parents of payment delays, and to send non-custodial parents a late payment notice;
- assessing the total demand on the customer service center and making staffing plans based on the results; and
- analyzing individual office call handling processes and staffing and making adjustments based on the practices of successful offices.

27. The Child Support Division should assess the capacity of the customer service phone inquiry system to register complaints, or forward complaints, to a centralized complaint handling division.

Presently, no option exists in the automated voice-response phone system for a client to file a complaint about an action or inaction of Division personnel.

Allow filing of complaints by phone.

Criminal Justice and Public Safety

Criminal Justice



The Sunset reviews of the Texas Department of Criminal Justice (TDCJ), the Board of Pardons and Paroles, and the Correctional Managed Health Care Advisory Committee examined each agency's functions in the context of the overall criminal justice system. The review of TDCJ focused on its ability to function as a unified criminal justice agency and how to better coordinate its main functions of community supervision, incarceration, and parole. The review also examined ways to make the system's current functions more effective with existing resources. Following a separate Sunset review of the Parole Board for the 1997 legislative session, the current review sought to improve coordination between the Parole Board and TDCJ to produce a seamless parole system. The Sunset Commission evaluated the need for the Correctional Managed Health Care Advisory Committee and the appropriateness of its structure in overseeing the correctional health care contracts which cost the State nearly \$300 million a year.

Texas Department of Criminal Justice

Key Agency Duties

- Oversees and distributes state funding to local community supervision and corrections departments.
- Builds and operates prisons, state jails, substance abuse centers, and other facilities for the confinement of persons convicted of felonies in Texas.
- Supervises offenders released from prison on parole or mandatory supervision.

Appropriation for FY 1999: \$2.1 billion

Number of Employees for FY 1999: 40,159

Statutory Reference: Government Code, Chapter 492

Agency Head: Wayne Scott, Executive Director, (409) 294-2101

Board Members (9)

Allan B. Polunsky, Chair (San Antonio)
Patricia A. Day (Dallas)
John David Franz (Hidalgo)
Alfred C. Moran (Arlington)
William H. Moody (Washington)

Nancy Patton (Lubbock)
Alfred M. "Mac" Stringfellow (San Antonio)
Carol S. Vance (Houston)
Carole S. Young (Davis)

Criminal Justice



Board of Pardons and Paroles

Key Agency Duties

- Determines which offenders are to be released on parole and in some cases under mandatory supervision and sets conditions of parole and mandatory supervision
- Makes decisions to revoke parole to send persons back to prison to serve out their sentences if they violate the terms of their release
- Makes clemency recommendations to the Governor

Appropriation for FY 1999: \$7,900,830

Number of Employees for FY 1999: 226

Statutory Reference: Government Code, Chapter 508

Agency Head: Victor Rodriguez, Chair, (512) 463-1679

Board Members (18)

Victor Rodriguez, Chair (Brownsville)
Lynn Brown (Carrollton)
Bennie L. Elmore (Huntsville)
John Escobedo (Huntsville)
Gerald L. Garret (Austin)
Juanita Gonzalez (Round Rock)
Daniel Ray Lang (Houston)
Mary Leal (Houston)
Thomas W. Moss (Amarillo)

Rissie Owens (Huntsville)
Paul Joseph Prejean (Beaumont)
Brendolyn Rogers-Johnson (Duncanville)
Terri Schnorrenberg (Gatesville)
Alvin Shaw (Austin)
Charles Shipman (Wichita Falls)
Cynthia S. Tauss (League City)
W.G. "Billy" Walker (Tyler)
Sandie Walker (Bryan)

Correctional Managed Health Care Advisory Committee

Key Agency Duties

The Committee develops a managed health care plan for persons confined by TDCJ that includes:

- a network of physicians and hospitals to serve TDCJ as the exclusive health care provider for confinees in its institutions.
- cost containment studies.
- care case management and utilization management studies performed for the department.
- a requirement for accreditation of hospitals and other health providers.

Criminal Justice



Appropriation for FY 1999: \$291 million
Number of Employees for FY 1999: 5
Statutory Reference: Government Code, Chapter 501.0594

Agency Head: Allen Hightower (409) 437-1972

Board Members (6)

David R. Smith, M.D., Chair (Texas Tech University Health Sciences Center, Lubbock)
James F. Arens, M.D., Vice Chair (University of Texas Medical Branch, Galveston)
Elmo Cavin (Texas Tech University Health Sciences Center, Lubbock)
Lannette Linthicum, M.D. (Texas Department of Criminal Justice, Huntsville)
Art Mosley (Texas Department of Criminal Justice, Huntsville)
E. J. Pederson (University of Texas Medical Branch, Galveston)

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Issue 1

Allow TDCJ to Reorganize its Divisions.

The Legislature created TDCJ in 1989 by merging three criminal justice agencies that became separate divisions specified in statute to represent prisons, probation, and parole. Since 1989, the Legislature has also established divisions in statute for state jails, programs and services, and internal audits.

The circumstances under which the Legislature established TDCJ's divisions in statute have changed so that now it confronts the pressures of fully integrating its functions to meet its goals as a unified criminal justice agency. Establishing TDCJ's divisions in statute prevents it from organizing to meet its needs.

Recommendation

Change in Statute

A. Remove statutory provisions mandating the establishment of divisions within TDCJ and grant TDCJ's Executive Director, subject to Board approval, the authority to establish and reorganize divisions within the Department.

This recommendation would allow TDCJ leadership to organize the agency's divisions and employ personnel for effective administration and performance of agency functions. Instead of relying on the Legislature for structural changes, this more responsive approach would allow the Board and Executive Director to make such changes, with accountability to the Legislature for the results.

B. Provide for the Judicial Advisory Council to advise the Board and the Executive Director regarding the potential impact of possible reorganization.

This recommendation would allow the Judicial Advisory Council, which represents the views of the State's criminal court judges and Community Supervision and Corrections Departments, to provide input to the Board and the Executive Director regarding the potential effect of proposed agency organizational changes on these local entities.

Fiscal Impact

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

Issue 2

Improve the Coordination Between the Parole Board and TDCJ on Parole Matters.

The parole system in Texas works with the Parole Board making decisions to release offenders before the end of their terms and TDCJ supervising these parolees in the community. Through several reorganizations, the parole system has achieved a balance between Parole Board independence and the integration of parole into the larger criminal justice picture. While recent efforts of TDCJ and the Parole Board reflect improved coordination, such as in implementing rehabilitation or super intensive parole supervision programs, they also point to the need for greater coordination in the future.

TDCJ should be able to organize to respond to legislative mandates.

Recommendation

Change in Statute

TDCJ and the Parole Board should work together more closely.

A. Require the Parole Policy Board and Texas Board of Criminal Justice to conduct a joint review of all parole rules, policies, and procedures to identify and reconcile gaps and areas of inconsistency.

This recommendation would establish a high-level connection between the Parole Board and TDCJ, promoting greater coordination in the parole process. Requiring a joint review by the Parole Board and TDCJ of all parole rules, policies, and procedures will reveal areas which are conflicting or lacking, and ensure that the Parole Board and TDCJ better coordinate their efforts.

B. Require the Board of Criminal Justice to provide a standing item on its meeting agendas for a report from the Parole Board.

This change would provide a continuing forum for considering parole matters of mutual concern to the Parole Board and TDCJ. This standard reporting mechanism is similar to what is currently provided for the Judicial Advisory Council regarding community supervision matters.

Fiscal Impact

This recommendation would have no fiscal impact to the state.

Issue 3

Revise Funding Sources for Community Supervision and Corrections Departments.

TDCJ's Community Justice Assistance Division (CJAD) distributes state funding to local departments for supervision, programs,

and services for offenders on community supervision. In fiscal year 1997, the State contributed 66 percent of the total funding for community corrections, with the local entities providing the remaining 34 percent through supervision fees and other local support. CJAD distributes funds by formula and through discretionary grants.

- **The current funding sources do not ensure that state funds are most effectively used for programs to divert offenders from the prison system.** The current funding process actually creates an incentive for community supervision and corrections departments (CSCDs) not to spend state funds allocated for supervision purposes so that they build fund reserves to address community correction needs. Further, this unspent money may not be redistributed to other CSCDs during the biennium, reducing the funding available for community corrections. In addition, CSCDs that pay for residential programs with formula funding instead of grants have lost the flexibility to cover these program costs over time. Finally, CJAD does not distribute discretionary grant funds based on program performance.
- **Money paid to CSCDs for presentence investigations could be better spent on diversions.** In fiscal year 1997, CJAD distributed \$4.6 million for presentence investigation reports intended to provide sentencing information for judges and other offender information for the Department. However, judges typically require a more detailed, narrative report, and the Department and the Parole Board do not use these presentence investigations as intended. The result is that CJAD pays CSCDs for completing forms that are not extensively used, instead of using those funds for needed diversionary programs.

Recommendation

Change in Statute

- A. Establish a cap on the amount of reserves that a CSCD may keep and reduce the amount of Basic Supervision formula funding to a CSCD by the amount exceeding the cap.**

Capping CSCD reserves would reduce the incentive not to spend money for supervision purposes. CSCDs could accumulate reserves as they currently do, but CJAD would reduce their formula funding after they accumulate reserves of two months' operating costs. CJAD should also devise standards or policies for granting waivers to CSCDs so that they may accumulate more than two months of reserves under special circumstances.

- B. Eliminate the requirement for TDCJ to prescribe presentence investigation reports.**

Eliminating the requirement for CSCDs to prepare presentence investigation reports for TDCJ would free the State from having to pay CSCDs for completing forms of questionable utility for both the local departments and TDCJ. Judges would still be able to order narrative reports for making sentencing decisions, as they currently do.

Change in Agency Appropriations

- A. Request the House Appropriations and Senate Finance Committees to reallocate presentence investigation funding for distribution through CJAD's discretionary grant program.**

Eliminating the requirement for prescribed presentence investigation reports would free up money that can be used to increase the amount of discretionary grant money CJAD could distribute on the basis of program performance.

- B. Allow CSCDs to return unspent Basic Supervision and community corrections programming funds to CJAD for redistribution during a biennium.**

This recommendation would allow CJAD to redistribute unspent formula funds through its discretionary grants program. This would increase funding for CSCD programs that divert offenders from prison and enable CJAD to allocate these funds based on performance, much like CJAD's authority to reallocate unspent grant funds within the biennium.

Management Action

- A. CJAD should revise funding priorities used to make discretionary grants.**

This recommendation would enable CJAD to tie funding to program performance. The Judicial Advisory Council would advise CJAD in the revision of these priorities.

- B. CJAD should transfer funding amounts between the community corrections programming and discretionary grant funds to support residential programs through grants.**

- C. CJAD should not allow CSCDs to fund residential programs with community corrections programming funds.**

Overall, these changes would reduce the financial strain on CSCDs that fund their residential programs with formula instead of grant funds. It would also direct CJAD to devise a plan to ensure that this transfer between funding sources will not cause any CSCD to lose funding. These changes would also better enable CJAD to evaluate the effectiveness of residential programs.

Fiscal Impact

While this recommendation would not have a direct fiscal impact to the State, it would change how money is spent on community

TDCJ should no longer require presentence investigation reports.

corrections. The overall expenditures for community corrections would remain the same at \$209.4 million.

Eliminating the disincentive for CSCDs to spend state money would encourage spending on community corrections as intended by the Legislature, causing a reduction in the amount of funds returned at the end of the biennium. Based on figures from fiscal years 1996-1997, these changes would have caused CSCDs to spend an additional \$18.1 million on community corrections instead of returning it to the State.

Eliminating the requirement for CSCDs to complete presentence investigation reports would provide an additional \$4.6 million annually for grant distribution. In addition, changing the way some CSCDs pay for residential programs would increase the amount available each year for grant programs from \$50.9 million to \$63.7 million.

Issue 4

Improve the Placement of Inmates in Prison Work Programs.

Texas inmates who are capable of working are required to work in prison industries or in jobs that support TDCJ. To ensure that all prison inmates are working, TDCJ has created about 400 job titles and about 70,000 positions.

- **Recidivism in TDCJ has increased dramatically in recent years.** Recidivism is the tendency of released inmates to commit new crimes and return to prison. Recent high rates of recidivism have resulted in higher costs to the State and stress on the prison system.
- **While vocational education is a recognized means of decreasing recidivism, TDCJ has not maximized the job training potential of its inmate work**

system. Because most prison support service jobs are assigned to inmates regardless of training needs and are not considered part of TDCJ's on-the-job training system, TDCJ is not gaining the full rehabilitative benefit of inmate work programs.

Recommendation

Change in Statute

- A. Require TDCJ to create or formalize on-the-job training programs for each inmate work program.**
- B. Expand the requirement to keep records on inmate job training and performance evaluations to include all inmate work programs.**

Management Action

- A. TDCJ should create a centralized inmate job placement office to list and classify all inmates job titles and to create a tiered job structure for offenders to change jobs based on vocational training and job performance. This office should work to ensure that job program participants may remain assigned to job duties unless security concerns override the placement.**
- B. TDCJ should modify its inmate classification procedures to accept input from the inmate job placement office. This input should include consideration of the office's recommendations that inmates enrolled in job-training programs be allowed to complete the program without required transfers to other units.**

These changes are intended to reduce the return of inmates into the system by improving the ability of inmates to gain employment upon release. They would move TDCJ's inmate work programs from a set of disconnected

Disconnected work programs should be turned into system-wide job training.

work programs into a system-wide job training program. This recommendation would also require TDCJ to provide inmates copies of their work records upon release, easing their transition into jobs outside of prison and reducing the pressure to offend because of a lack of employment.

Fiscal Impact

These changes should not involve any major costs to the state, but could result in significant long-term savings. Requiring TDCJ to formalize its on-the-job training programs and to keep records on inmate training would have a minimal fiscal impact on TDCJ. The Legislature has already assigned TDCJ the task of implementing and tracking the success of vocational training programs. Because the recommendation to create a centralized inmate job placement office is a management action, TDCJ should implement the change in such a way as to minimize its costs. The management recommendation to coordinate inmate classification procedures with the job placement office should have no fiscal impact.

To the extent that these recommendations reduce recidivism, they would have long-term positive effects on the state's General Revenue Fund through reduced need for future expansion of the prison system. The amount of savings from this potential reduction cannot be estimated.

Issue 5

Improve Oversight of the Texas Correctional Industries Program and Direct it to Operate at a Profit.

TDCJ's Texas Correctional Industries (TCI) operates as a business enterprise using offenders to produce goods and services for use in the prison system and for sale to other governmental entities. TCI is overseen by the

Board of Criminal Justice. A number of recent audits have uncovered management problems within TCI resulting from the lack of the oversight required for such a unique business program. TCI is also hampered by trying to meet seven conflicting goals.

Recommendation

Change in Statute

A. Simplify TCI's goals to clarify its responsibility to reduce costs and operate at a profit and to provide job skills to offenders.

This change would remove the goals currently in statute and replace them with the following two goals. TCI should reduce the cost of prison operation by producing goods and services for use by TDCJ, and it should seek to operate at a profit by producing goods and services for other units of state and local government.

TCI should also provide inmates with marketable job skills to help reduce recidivism. TCI should link job skills training, documentation of each offender's work history, and job placement assistance to released offenders using the combined resources of the Texas Workforce Commission, and TDCJ's Parole Division.

B. Provide a higher level of autonomy to the Director of TCI to achieve success in TDCJ's industry operations.

This recommendation would provide specific tools to enable the director of TCI to address the special needs of prison industries in conjunction with the security concerns of operating prisons. Among these tools, is process for placing offenders in appropriate work programs by factory managers in consultation with unit classification committees in a way that minimizes transfers. Suitable candidates should be appropriately classified, and otherwise available for work.

TCI's Director should have flexibility to operate the prison industries as a business.

Suitable inmates with short sentences should be placed in industries that provide marketable skills.

TDCJ and the General Services Commission, through an interagency agreement, should also expedite the process for TCI purchasing, while maintaining adequate controls. In addition, the Government Code should be amended to clarify that TCI is a vendor under provisions enacted in the last legislative session, including eligibility to receive interest payments on slow-pay accounts.

Finally, TCI should explore opportunities to increase productivity in its industries by adding employees or additional shifts if additional markets can be successfully developed under the Prison Industries Enhancement contract model. TCI should also be able to contract with the private sector for the profitable manufacture and sale of goods and services under the authority of the Private Sector Prison Industries Oversight Authority.

Change in Agency Appropriations

A. Request the House Appropriations and Senate Finance Committees to provide reimbursement for travel expenses for members of TDCJ's Prison Industries Advisory Committee.

This change would enable the Advisory Committee to better assist the Board of Criminal Justice in overseeing correctional industries.

B. Request the House Appropriations and Senate Finance Committees to discontinue financing TCI operations from the industrial revolving fund and provide funding instead solely through the appropriations process.

Funding for TCI comes from the industrial revolving fund for sales outside the prison system and from legislative appropriations for the manufacture of goods for TDCJ.

Eliminating the use of the industrial revolving fund would allow TDCJ to account for all TCI revenues and expenditures without separating outside sales and TDCJ sales. This change would simplify TCI's accounting systems and allow TDCJ to better manage the industries program's spending.

Management Action

A. TDCJ should take action to provide flexibility for TCI to function effectively.

Wardens at TDCJ units should be encouraged to accommodate TCI operational needs, including decisions to work multiple shifts and the need for meals to be served within the industry facility to reduce work interruptions if cost effective. Workers should be housed together when possible to reduce disruptions of work schedules during lock-downs and to facilitate training and movement of inmates to work areas.

TDCJ should establish a system of incentives to units and factories that demonstrate successful industrial operations. Finally, the Windham School District should provide night classes for inmates who wish to work and attend classes, if cost effective.

B. TDCJ should submit a plan to the Sunset Commission by December 1, 1998 detailing how and when it will accomplish the actions specified above. In addition, TDCJ should be required to report quarterly to the Sunset Commission on the progress of implementing the action plan.

TDCJ submitted its first status report on time. The Sunset Commission will continue to monitor TDCJ's progress in implementing these recommendations and will compile a separate analysis of these implementation activities before the 2001 legislative session.

Fiscal Impact

These recommendations would not have a cost to General Revenue, but could result in long-term savings to the State. The amount of increased savings cannot be determined because the amount of increased efficiency and productivity of the prison businesses, due to improved oversight, cannot be estimated.

Issue 6

Improve Coordination Between Food Services and Agriculture.

TDCJ has split the responsibility for feeding inmates between two separate divisions: the Food Services Department, which prepares the food, and the Agriculture Division, which produces about 20 percent of the total food consumed by inmates.

This organizational structure leads to poor coordination and complicates the processes for producing, purchasing, and delivering food internally. Poor integration has also resulted in wasted food and misplaced investments in enterprises that do not support the needs of the prison system. Further, the Agriculture Division does not examine alternative means of acquiring food that may be more economical for Food Services.

Recommendation

Management Action

- A. TDCJ should consolidate all agriculture and food services functions in one division.**
- B. The consolidated agriculture and food services division should establish criteria for determining which agriculture enterprises to continue. The criteria should be developed with input from customers of the agriculture program.**

- C. The consolidated agriculture and food services division should periodically examine all existing agricultural enterprises using the established criteria and to cease operations of the enterprises that cannot be justified by the criteria.**

Consolidating the agency's agriculture and food service operations would ensure that the agriculture program focuses on meeting the needs of its primary customer. The consolidated division should put the needs of food services first when determining which crops or livestock to produce in order to maximize its limited resources and produce only what is needed.

Fiscal Impact

The recommendation to integrate the functions of agriculture and food services should have a long-term positive fiscal impact, but an estimate of savings would depend upon how TDCJ implements these changes. Better planning of food production should result in more efficient use of resources and savings in costs associated with disposing unneeded products. A full examination of alternative food products should further reduce the daily cost of feeding inmates.

Food services should be Agriculture's first priority.

Issue 7

Evaluate the Cost Effectiveness of TDCJ's Centralized Intake and Release Processes.

TDCJ accepts about 800 offenders and releases about 500 offenders each week. Because the agency's intake and release systems are centralized, male offenders generally travel to Huntsville upon entering or exiting the prison system, while female offenders enter and exit through Gatesville. Although TDCJ has grown from a regional to a statewide system in the past decade, the

agency has not analyzed the cost effectiveness of these intake and release processes. This centralization may require hundreds of miles of unnecessary travel for each offender during the intake and release processes.

Recommendation

Management Action

The State Auditor's Office should review TDCJ's intake and release systems as part of its next scheduled audit of the agency.

This review would build off past experiences of the State Auditor's Office, and would provide TDCJ with information for it to use in improving its intake and release systems.

Fiscal Impact

This recommendation would not have a fiscal impact to the state. The State Auditor's Office should perform this review with existing resources. Improving TDCJ's intake and release processes should reduce its transportation costs, which were more than \$23 million in fiscal year 1997.

Issue 8

Consolidate Inmate Grievance and Ombudsman Functions to Focus TDCJ's Efforts to Resolve Inmate Complaints.

TDCJ has two separate procedures to handle inmate complaints and provide information to inmate families: a grievance procedure for inmates and an ombudsman function for families. A lack of coordination between the two functions may result in duplication of effort and inconsistent information. In addition, the current inmate grievance process does not

promote objectivity in solving problems due to a lack of autonomy from prison unit administration.

Recommendation

Management Action

Consolidate inmate grievance and Ombudsman processes into a single office for resolving complaints and elevate its status within the organization.

This recommendation would provide a consolidated, more independent, and comprehensive approach to resolving offender grievances and inquiries. The organization of this combined effort should reflect the need for autonomy and independence in resolving offender grievances. This change would help reduce the threat of legal action by offenders and would improve the agency's ability to deal with the large volume of these inquiries received.

Fiscal Impact

This management action would not cause additional fiscal impact to the State.

Issue 9

Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.

Substance Abuse Felony Punishment Facilities (SAFPs) provide intensive substance abuse programming for offenders serving on community supervision, or probation, and parolees with substance abuse problems. After completing the treatment program, offenders are sent to community residential facilities for aftercare treatment.

The Board of Pardons and Paroles requires parolees, as a condition of parole, to pay 25 percent of their income in residential fees while staying at a residential facility. Probationers, however, have not been ordered to pay residential fees for SAFF aftercare facilities.

Recommendation

Change in Statute

Require probationers to pay a residential aftercare fee as a condition of being sentenced to a Substance Abuse Felony Punishment facility.

This recommendation would treat probationers the same as parolees with regard to paying residential fees for SAFF aftercare. The requirement to pay the fee would simply be added to the existing statutory requirements imposed by a judge in placing an offender in a SAFF. The fee could be up to 25 percent of gross income, as determined by the judge, taking into account other court-imposed fines and sanctions on the probationer. The TDCJ Parole Division, which administers these aftercare facilities, would reduce the contract payments to the facility operators by the amount of residential fees collected using the same collection system in place for parolees.

Fiscal Impact

This recommendation would result in an annual savings of \$1.4 million to General Revenue Fund. This estimate is based on the assumption that probationers would pay this fee at the same rate that parolees currently do.

Issue 10

Continue the Texas Department of Criminal Justice for 12 Years.

TDCJ's functions in assisting in community corrections, incarcerating felons, and supervising parolees continues to be needed. In addition, the Board of Pardons and Paroles is subject to Sunset review concurrently with TDCJ. As a constitutional agency, however, the Parole Board is not subject to abolishment under the Sunset Act.

Recommendation

Change in Statute

Continue the Texas Department of Criminal Justice for 12 years.

This recommendation would continue the Department for the usual 12 years with a new Sunset date of September 1, 2011. Because the Board of Pardons and Paroles is not subject to abolishment, but is instead subject to review at the same time as TDCJ, it would also come under review in 2011.

Fiscal Impact

If the Legislature continues the current functions of TDCJ, using the existing organizational structure, the Department's annual appropriation of approximately \$2.1 billion in fiscal year 1999 would continue to be required for the operation of the agency.

Probationers should help pay the cost of their stay in residential facilities.

Issue 11

Expand the Role and Structure of the Correctional Managed Health Care Advisory Committee.

In 1993, the Legislature established a managed health care system for TDCJ to control increasing costs and use the expertise of state-funded medical schools, specifically the University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center. To oversee this system, the Legislature created the Correctional Managed Health Care Advisory Committee.

- **The Advisory Committee is not appropriately structured to impartially manage the large managed health care system.** Because the Advisory Committee has a majority of its members representing the universities that provide health services, it puts contractors in charge of overseeing their own contracts, raising questions about the objectivity of their oversight.
- **The responsibilities for monitoring the prison health care system are not adequately assigned and insufficient financial planning has occurred to determine the true costs of correctional health care.**

The prison health care system could benefit from additional members on the Committee.

Recommendation

Change in Statute

- A. Expand the Advisory Committee's membership to provide additional expertise and achieve a broader perspective.**

This change would retain the existing Advisory Committee members specified in statute and expand the size of the Advisory Committee from six to nine, by adding members as follows:

- two persons licensed to practice medicine in Texas, who are not affiliated with the contracting entities, and
- one person, representing the general public.

This change would provide additional perspective to the oversight of these health care contracts. The Governor would appoint the new members to serve staggered, six-year terms and would designate one of the physician-members to Chair the Committee.

B. Specify the duties of the Advisory Committee to oversee the correctional health care contracts.

The statute should specify the responsibilities of the Advisory Committee, including:

- determining a capitation rate reflecting the true cost of correctional health care;
- acting as an independent third party in the allocation of funds to providers for inmate health care;
- monitoring and developing reports on quality of care issues;
- acting as an independent third party for the purpose of dispute resolution in the event that disagreements develop between TDCJ and the health care providers;
- developing the contracts for health care services in consultation with TDCJ and the providers; and
- enforcing compliance with contract provisions, including requiring corrective action if care does not meet expectations as discovered through TDCJ's quality of care monitoring activities.

In addition, the Advisory Committee's name should be changed to the Correctional Managed Health Care Committee, and it should be administratively linked to TDCJ.

These changes would ensure that functions currently specified only in the contracts with the providers are clearly laid out in statute and required to occur. The Advisory Committee would serve largely as an impartial arbiter between TDCJ and the health care providers. It would be responsible for determining a cost per offender per day that more accurately reflects the costs of correctional health care, including catastrophic reserves. The Advisory Committee would need to be able to hire a consultant to assist it in determining these costs.

The Advisory Committee would also need to be better aware of trends in the offender population that would have an impact on the cost of health care. To accomplish this, the Advisory Committee would be responsible for hiring a consultant to determine these trends and costs.

C. Improve TDCJ's ability to monitor the correctional health care contracts.

The statute should specify TDCJ's ability to monitor the health care its inmates receive by:

- authorizing an increase in the exempt salary for the Director of the Health Services Division,
- specifying TDCJ's responsibility to monitor the quality of care delivered by the health care providers,
- ensuring that the results of TDCJ's monitoring activities are communicated to the Advisory Committee, and
- maximizing the use of available clinical and professional resources within the participating medical schools for clinical oversight of quality of care issues.

These recommendations would give TDCJ the tools to better monitor the quality of care its inmates receive. TDCJ would accomplish this through such activities as its existing mechanisms for receiving and investigating medical grievances, ensuring access to care, and conducting periodic operational reviews of health care at its units. These activities would serve as the basis for feedback to the Advisory Committee regarding the quality of care at the units and the need for action by the providers.

D. Continue the Advisory Committee for six years, providing for Sunset review in 2005.

This recommendation would allow the Legislature to re-evaluate the need for this entity as an impartial arbiter in the correctional health care system.

Fiscal Impact

By expanding the responsibilities and the size of the Advisory Committee, this recommendation would result in higher travel and per diem costs to the State, but the precise amount is expected to be small.

The recommendation would also require the Advisory Committee to hire consultants to conduct studies to determine an appropriate capitation rate and identify health trends in the correctional population. However, the cost of these studies cannot be estimated at this time. These studies are intended to give the Advisory Committee and the Legislature a better understanding of the current and future costs of providing correctional health care potentially resulting in increased long-term savings.

Increasing the salary level of TDCJ's Health Services Division Director would cause additional costs to TDCJ. However, these costs would have to be determined through the appropriations process. In 1997, the Legislature set the salary level for this position

The Committee should serve as an arbiter between TDCJ and the universities.

Criminal Justice

at \$136,347. In September 1997, the Board of Criminal Justice exercised its authority to increase individual appropriation items by 4 percent to raise the medical director's salary to \$141,800.

Finally, the recommendation would specify requirements for TDCJ regarding monitoring of the health care contracts, but would not cause an additional fiscal impact to the State. While these requirements would be specified in statute for the first time, TDCJ already provides this monitoring.

Department of Public Safety



Key Agency Duties

- Enforce the laws protecting public safety and provide for the prevention and detection of crime.
- Administer driver and concealed handgun licensing programs.
- Support local law enforcement agencies by maintaining a state communications network and crime records and histories.
- Administer and coordinate emergency preparedness and response programs.

Appropriation for FY 1999: \$302 million

Number of Employees for FY 1999: 7,026

Statutory Reference: Government Code, Chapter 411

Board Members (3)

James B. Francis, Jr. Chair (Dallas)

Robert B. Holt (Midland)

Colleen McHugh (Corpus Christi)

Agency Head: Colonel Dudley M. Thomas, Executive Director, (512) 453-3929

Recommendations

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Issue 1

Expand the Public Safety Commission to Six Members.

The Department of Public Safety is overseen by the three-member Public Safety Commission. The Commission is a part-time board and is responsible for organizing and guiding the Department's efforts.

- **The Commission's current structure limits its ability to provide policy guidance.** Despite growth in the Department's responsibilities and expansion of its scope beyond basic law enforcement, the Commission's structure has not changed. Due to its size, common means of communicating or organizing its work effort are more difficult, or not feasible.
- **The Commission is unique when compared to other policymaking bodies that oversee large agencies.** A review of other state agencies shows that the Public Safety Commission is the only three-member, part-time board that oversees an agency of the size and complexity of DPS. Additionally, the Commission is the only agency governing body that serves as the final level of appeal for discharged employees.

Recommendation

Change in Statute

- Increase the size of the Public Safety Commission to six members.**
- Authorize a subcommittee of the Public Safety Commission to hear appeals of personnel actions.**

This recommendation would increase the size of the Public Safety Commission from three to six members. Commissioners would

continue to be appointed by the Governor to staggered six-year terms and must meet the same qualifications for membership currently in statute.

Additional members would increase the management resources available to the Department in the form of business knowledge and expertise. In addition, an expanded Commission would allow the creation of subcommittees to develop expertise in different areas of agency operations.

Management Action

The Public Safety Commission should form subcommittees for:

- **audit and operations,**
- **budgeting and planning, and**
- **investigations and personnel.**

Directing the Commission to create subcommittees that focus on audit, budget, and investigative matters would allow the Commission to better oversee the activities of the Department. The investigations and personnel subcommittee could keep track of any criminal investigations for the Commission and address personnel matters, including hearing employee discharge appeals that are currently heard by the full Commission.

Fiscal Impact

The expansion in the number of Commission members would increase travel expenses. Based on projections of continued monthly meetings, costs would increase by approximately \$15,000 per year. Current expenses are paid from the State Highway Fund.

Adding three members to the Public Safety Commission would enable it to better oversee DPS.

Issue 2

Strengthen Independence and Oversight of DPS' Internal Review Functions.

The Department has three internal oversight functions: Internal Audit, Inspection and Planning, and Internal Affairs. These functions are designed to provide objective, independent information to management and to conduct impartial investigations of criminal misconduct of DPS employees.

- **The Department's own internal oversight functions have not helped improve program management.** While the Department has the key elements of internal oversight — audits, inspections, and investigations — a lack of independence, coordination, and accountability prevent these functions from adequately supporting management.
- **The Legislature's recognition of the need to address concerns at the Department has led to a higher level of external oversight.** While the Legislature typically provides oversight of executive agency functions through appropriations and strategic planning processes, concerns about the management of key functions at the Department have resulted in additional oversight, such as the current Sunset review, which was scheduled out of its regular order.

DPS internal oversight functions should report directly to the Commission.

Recommendation

Change in Statute

- A. Consolidate Internal Audit and Inspection and Planning into a single Office of Audit and Review that directly reports to the Public Safety Commission.**

- B. Establish as the mission of the Office of Audit and Review the responsibility to independently and objectively audit and inspect all divisions of the Department.**

- C. Specify that the Office is authorized to:**

- **conduct independent and objective audits and inspections relating to Department programs and operations;**
- **promote economy, effectiveness, and efficiency within the Department;**
- **prevent and detect fraud, waste, and abuse in Department programs and operations;**
- **review and make recommendations regarding regulations relating to Department programs and operations; and**
- **keep the Commission, Director, and the Legislature fully informed of problems in Department programs and operations.**

- D. Empower the Director of the Office of Audit and Review with:**

- **independence to determine what reviews to perform,**
- **access to all necessary information, and**
- **authority to publish review findings and recommendations.**

This recommendation would combine existing internal oversight functions into an Office of Audit and Review that reports directly to the Public Safety Commission. Elevating the oversight functions into a single office — outside the normal chain of command — would give more independence and authority to these functions and highlight the importance of this oversight.

The Director of the Office of Audit and Review would be hired by the Commission and must meet all requirements of the Internal Audit Act, provide all reports of its audits and inspections directly to the Commission, but may use the Executive Director's Office for administrative purposes. In addition, the Executive Director should continue to be informed of the Office's report findings.

E. Specify that the Internal Affairs section:

- **report directly to the Public Safety Commission, and**
- **has original jurisdiction over all criminal investigations occurring on departmental property or involving on-duty DPS employees.**

This recommendation would require the Director of Internal Affairs to be hired by the Commission, but report for routine administrative purposes and provide appropriate investigative information to the Executive Director.

Internal Affairs investigations would be approved by the Director or a member of the Commission before they could be conducted. The section would keep the Commission informed on all current criminal investigations and analysis of criminal investigation trends, including recommendations to avoid future complaints. However, Internal Affairs would not be required to conduct all investigations.

Fiscal Impact

These recommendations would not have a fiscal impact on DPS. The recommendations would not require the creation of new positions but would permit greater coordination of existing resources.

Issue 3

Formalize the Grievance Process and Use Mediation to Improve Employee Relations.

Good employee relations are based on open communication and the commitment to resolve workplace problems. DPS has two processes for dealing with employment-related problems: a grievance procedure for employees to express concerns about the workplace and a process to appeal disciplinary actions.

- **The Department's grievance and appeals processes do not adequately promote good employee relations.** DPS does not have a formal process for receiving feedback from its employees and relies on the chain of command. This process may not be the most objective way for employees to communicate problems about their working conditions, or to reverse adverse job actions, especially if those problems directly relate to an employee's supervisors.
- **Other DPS human resources practices do not assist in promoting better employee relations.** The Department does not have an Employee Relations Office, nor does it track grievance or disciplinary appeals information, and it has not updated the employee handbook since 1992.
- **The Legislature and other state agencies have shown an interest in improving employee relations and using mediation to resolve workplace problems.** The Legislature has encouraged the use of alternative dispute resolution tools in resolving employment-related issues. Several state agencies, including the Texas Department of Criminal Justice, have successful employee relations programs and use mediation to resolve em-

Reporting complaints through the chain of command may not allow objective communication of employee problems.

ployee grievances and disciplinary actions.

Recommendation

DPS employees should have the option of mediation to resolve problems.

The Department needs an Employee Relations Office.

Change in Statute

A. Require DPS to formalize an employment-related grievance procedure that includes the following key elements:

- a form for employees to state their employment-related grievances and request a specific corrective action;
- time limits for employees to submit grievances and for management to respond;
- a stepped process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;
- a method to track the number of grievances filed and the subjects and resolution of the grievances;
- an assurance that confidentiality of all parties involved will be maintained and retaliation against an employee filing a grievance is prohibited; and
- a program to advertise and explain the grievance procedure to all employees.

This recommendation would establish a formal procedure for DPS employees to express employment-related grievances. The recommendation would not circumvent the Department's current approach to dealing with these grievances through the chain of command or affect DPS' complaint process, as overseen by Internal Affairs, that can lead to disciplinary action against an employee.

B. Require DPS to prepare an annual report on the use of its employment-related grievance process to be submitted to the Public Safety Commission and the Legislature.

This recommendation would allow the Public Safety Commission and the Legislature to monitor implementation of the revised grievance process and provide information to agency and state decision makers to address any on-going employment-related problems within the agency. The Department's report to the Legislature should be submitted as part of its annual report already required by statute.

C. Require DPS to allow all employees the option of using mediation to resolve employment-related grievances.

D. Require DPS to phase in a process over two years to allow employees the option of using mediation to resolve disciplinary action appeals.

E. Permit DPS employees recommended for termination to choose between an appeal to the Public Safety Commission or an outside mediation service.

F. Require the Public Safety Commission to adopt rules governing all disciplinary action appeal hearings.

These recommendations would allow employees to request mediation to resolve their grievances and appeals of disciplinary action. The use of mediators is not meant to circumvent the chain of command, but to provide an option to use in appeals cases in addition to the current appeals system. However, an employee must choose a single avenue of appeal and may not choose another once the process has begun. The Public Safety Commission would be required to adopt rules establishing when the use of mediation is appropriate in the grievance process, as well as rules that describe in detail the procedures and practices governing appeals.

Management Action

- A. The Department should create an Employee Relations Office within its Human Resources Division.**
- B. DPS should consult with other state agencies and information sources that have knowledge in alternative dispute resolution and employee relations.**
- C. DPS should update its employee handbook biennially and distribute it to all employees.**

The Employee Relations Office should have three main responsibilities — grievances, disciplinary action appeals, and equal employment opportunities. The Office should receive copies of all grievances and appeals filed, record the responses to and resolution of grievances, and monitor the appeals process. The Office should also provide training to all hearing officers and jurors, monitor hearings to ensure consistency and compliance with hearing rules, and educate DPS employees on the grievance and appeal procedures.

Fiscal Impact

These changes would have a minimal fiscal impact on the State. DPS would have increased administrative costs to develop systems to track and report on the new grievance procedure. Further, the cost of mediation will depend on how the Department chooses to implement the program and how often mediation services are used.

These recommendations are intended to improve DPS' relationship with its employees. To the extent this improvement occurs, these recommendations should have a long-term positive fiscal impact as a result of fewer employee lawsuits and lower turnover rates.

Issue 4

Authorize the Director to Select Senior-Level Management Staff.

The ability to assemble a management team is central to agency performance and accountability. In most instances, state employees work on an at-will basis and can be discharged or reassigned at the Director's pleasure. DPS employees, however, work on a for-cause basis and can only be dismissed or demoted for documented violations of rules or laws. The statute also restricts the Director's ability to make key management staff assignments or changes based on performance or abilities.

Recommendation

Change in Statute

- A. Authorize the reassignment or demotion of key management staff at the Director's discretion.**
- B. Require the Public Safety Commission to approve criteria used by the Director to appoint key management personnel.**
- C. Authorize the Director to appoint the Assistant Director with the approval of the Public Safety Commission.**

These changes would allow the Director to appoint the major division heads and positions within the Director's own staff. This would not change the for-cause status of the Department's employees; rather, it would authorize the Director to demote or reassign management staff, commissioned and non-commissioned, without documenting a specific violation of a Commission rule. An employee appointed to a key position, upon demotion or reassignment, would be assigned

The Director should have the flexibility to select key management staff.

to an equivalent position or returned to the rank the employee held, or its equivalent, immediately before the appointment.

In addition, authorizing the Director to appoint the Assistant Director, subject to Commission approval, would provide greater management flexibility for the Director.

Fiscal Impact

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

Issue 5

Increase Oversight of Seized Assets.

DPS is responsible for collecting, managing, and disbursing assets and funds that are seized because they were used or involved in the commission of a crime. At DPS, the authority over seized assets rests with the Director, who may only use them for law enforcement purposes and may not supplant appropriated funds.

Asset seizures generate a significant amount of revenue for the State. For each of the past four years, the Department has collected an average of \$4.3 million in state and federal seized assets.

The current oversight of seized asset funds is not adequate to provide accountability for their use. Unlike other public funds, the use of seized assets does not require input or approval by the Legislature or the Public Safety Commission.

The Legislature needs reports on the use of seized assets.

Recommendation

Change in Statute

- A. Require the Public Safety Commission to approve all of the Department's seized asset expenditures and adopt, by rule, an approval process.**
- B. Require the Department to annually report to the Legislature on its expenditures and planned future uses of seized assets as follows:**
 - **regarding receipts — the court that adjudicated a seized asset case, the nature and value of the assets, and the specific intended use of the assets;**
 - **regarding disbursements — the departmental control number and category, the division making the request, the specific item and amount requested, the amount the Commission approved, and the actual amount expended per item; and**
 - **regarding planned disbursements — a description of the broad categories of anticipated disbursements and how they relate to the Department's strategic plan.**

These recommendations would ensure that the intended or requested use of seized assets supports and is consistent with the critical law enforcement needs and priorities of the Department, as identified in the goals, strategies, and objectives of DPS's strategic planning document.

The requirement to annually report on the expenditure of these assets to the Legislature reflects an existing appropriations rider requiring reporting on the disbursement of seized assets. The Department should file a

supplemental report if the planned use or actual expenditure of seized assets deviates from the information presented in the annual report.

Fiscal Impact

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

Issue 6

Authorize Electronic Renewal of Driver's Licenses.

The Department administers the licensing program for Texas' 13.1 million licensed drivers. About 683,000 new driver's licenses and 3.3 million renewals are issued each year. Almost a quarter of the Department's staff is dedicated to the issuance and renewal of driver's licenses or identification cards.

While the Department may renew driver's licenses by mail, it does not have express statutory authority to conduct this business electronically, by telephone or over the Internet. In addition, the current requirement to show proof of insurance hampers the Department's ability to change existing renewal practices.

Recommendation

Change in Statute

- A. Authorize the Department to conduct driver's license and identification card transactions by phone, Internet or other electronic means.**
- B. Authorize the Department to accept credit or debit card payment in person, by mail or phone, and over the Internet.**

- C. Remove the requirement for evidence of financial responsibility for driver's license renewal transactions.**
- D. Authorize the Department to include identification card renewals in the renewal by mail program.**
- E. Authorize the Public Safety Commission, through rule, to:**
 - **set a fee for the use of credit cards, and**
 - **set eligibility standards to use the phone or Internet for license transactions.**

These changes would provide the Department of Public Safety with more flexibility to engage in electronic commerce options. Specific transactions that DPS could conduct electronically include driver's license renewals, identification card renewals, changes of address, and requests for information. This recommendation would also authorize the expansion of the renewal by mail program to include identification card renewals. In addition, the Department would decide who would be eligible to use the phone, Internet, or mail to renew licenses. The Commission could require a service charge to cover the cost of credit card transactions.

Eliminating the requirement to provide evidence of financial responsibility for driver's license renewals would not jeopardize public safety. An annual check on proof of insurance is already required by the TxDOT for registrations and annual vehicle inspections. Further, the significance of providing proof of insurance in driver's license transactions has been diminished by the switch to a six-year license.

Citizens should be able to renew driver's licenses electronically.

Fiscal Impact

This recommendation would result in additional costs to the Department to implement the computer and telephone systems required for electronic commerce. However, this cost would be offset by long-term savings by charging transaction fees and reducing the future need for additional personnel or facilities.

Issue 7

Use Civilian Staff to Conduct Routine Audits and Inspections to Help Ensure Truck Safety.

Texas has experienced tremendous growth in truck traffic due to an expanding economy and the enactment of the North American Free Trade Agreement. This increase has provided a significant regulatory and enforcement challenge for the Department.

- **DPS has not strategically used its staff resources to meet the needs of increasing truck traffic.** The Department relies solely on commissioned officers for truck safety inspections and motor carrier review compliance audits.
- **Using commissioned officers is more expensive than civilians because of higher training and equipment costs.** All commissioned officers must complete the trooper school and, upon being commissioned, are assigned equipment such as a vehicle and firearm. While this training and equipment is essential to perform law enforcement functions, it is not needed to perform regulatory activities.
- **The Legislature has required DPS to use civilian staff to perform other regulatory functions.** The Department has recently shifted to using civilians in its vehicle inspections and driver's license activities, without compromising public safety.

Routine truck safety audits and inspections can be done by civilian staff.

Recommendation

Change in Statute

- A. Require the Department to use non-commissioned staff to conduct routine compliance review audits of motor carrier operations.**
- B. Authorize non-commissioned staff to perform truck safety inspections at weigh stations and border checkpoints.**

This change would allow DPS to more efficiently regulate truck safety, without compromising public safety. Civilian staff would conduct routine compliance review audits of a motor carrier's records, operations, and policies, as well as perform inspections in the field.

The Department would be required to ensure that civilian staff are qualified and receive the same training in truck safety inspections or audits currently given to commissioned officers. The Department should also ensure that civilian inspectors are supervised by commissioned troopers. Only a commissioned officer would issue an enforcement action against a motor carrier.

This recommendation would not reduce the number of authorized commissioned positions within the Department and would not prevent the use of commissioned officers to conduct audits or safety inspections, as the Public Safety Commission determines necessary.

Management Action

The Department should report, in its legislative appropriations request, a hiring schedule for non-commissioned staff within the License and Weight Service.

The Department should detail a schedule for placing non-commissioned staff within the License and Weight Service, including a phase-in period. Providing additional information, such as a staffing ratio for

commissioned to non-commissioned staff, will allow State budget writers an opportunity to assess DPS' compliance with this recommendation.

The phasing in of non-commissioned staff could occur over several years and mirror the approach taken to use non-commissioned driver license and motor vehicle inspection personnel. To allow adequate time to hire and train non-commissioned License and Weight staff, the Department should submit this information with its next legislative appropriations request, and full implementation should occur no later than fiscal year 2003.

Fiscal Impact

This recommendation would have a positive impact on the State Highway Fund. Requiring the use of non-commissioned staff to fulfill regulatory responsibilities currently staffed by commissioned officers will reduce salary, training, and equipment costs. The total current cost to train and equip a new trooper for license and weight duty is \$112,000 compared to \$45,000 for a civilian.

Currently, on average, the Department's costs are more than \$39 per hour for the activity of a License and Weight trooper. This hourly cost, when recalculated using non-commissioned staff costs drops to \$19.16 per hour, or a 51 percent savings. However, the exact savings that would result from this recommendation could not be estimated.

Issue 8

Improve DPS and TxDOT Planning for the Enforcement of Truck Safety Laws.

DPS and the Texas Department of Transportation (TxDOT) are responsible for the traveling public's safety and protection of the State highway system. TxDOT registers

trucks and issues permits for vehicles to exceed standard size and weight limits. DPS enforces size and weight limits on trucks traveling the State's highways. However, TxDOT builds the facilities essential to supporting enforcement of truck safety laws.

- **State facilities used to enforce truck regulations are inadequate.** Many facilities are designed only to weigh trucks and do not have adequate space to safely conduct inspections. In addition, the State has no weight or inspection facilities located at the border with Mexico. Instead, the Department must rely upon existing facilities operated by U.S. Customs.
- **No formal coordination exists to address facility needs for commercial motor carrier regulation.** DPS does not play a significant role in TxDOT's planning for projects that affect regulatory activities, possibly jeopardizing the State's ability to receive federal funds for transportation projects.

Recommendation

Change in Statute

A. Require the Public Safety Commission and the Transportation Commission to formalize, through an interagency agreement, a planning process when developing transportation infrastructure projects that affect both agencies. The agreement should:

- **allow DPS to provide ongoing input to TxDOT on statewide transportation planning efforts that affect traffic law enforcement,**
- **require DPS and TxDOT to define their respective roles relating to transportation infrastructure efforts, and**

DPS should have a voice in the State's transportation planning.

- **require a jointly developed state-wide plan for how best to apply for and use federal funds to address infrastructure needs that affect enforcement efforts.**
- B. Require DPS and TxDOT to develop and implement the interagency agreement by January 1, 2000, periodically review the interagency agreement, and formally adopt all revisions to the agreement.**
- C. Require DPS to develop a long-term infrastructure needs assessment for the enforcement of commercial motor vehicle regulations.**

These changes would ensure that TxDOT obtains DPS' input on highway building and maintenance projects that potentially affect the Department's operations and enforcement abilities. This recommendation would also allow the agencies to jointly determine the areas of the state that need greater commercial motor vehicle enforcement, such as near the border. Through the statewide plan, both agencies should ensure that the State is maximizing federal transportation dollars.

The joint long-term needs assessment report should be submitted to the Legislature as part of the Department's legislative appropriations request and also to the Transportation Commission, beginning in fiscal year 2000.

Fiscal Impact

No fiscal impact is anticipated from the implementation of this recommendation.

Issue 9

Continue the Department of Public Safety for 10 Years.

The Department's mission — to prevent and detect crime, enforce criminal and traffic laws, apprehend violators, and educate the public — is of vital importance to the people of Texas.

Recommendation

Change in Statute

Continue the Department of Public Safety for 10 years.

Fiscal Impact

If the Legislature continues the functions of the Texas Department of Public Safety with the current organizational structure and duties, the Department's annual appropriation of approximately \$302 million for fiscal year 1999 would continue to be required for the operation of its functions.

Texas Board of Private Investigators and Private Security Agencies



Key Agency Duties

- Establishing standards for licensure, developing minimum level training or competency materials, and approving schools and instructors to teach relevant courses and administer exams to qualified applicants.
- Enforcing provisions of the Private Investigators and Private Security Agencies Act and Board rules, and sanctioning persons who fail to comply with these requirements.

Appropriation for FY 1999: \$4 million

Number of Employees for FY 1999: 40.5

Statutory Reference: Texas Revised Statutes, Article 4413(29bb) - Private Investigators and Private Security Agencies Act.

Board Members (8)

Ben C. Nix, Chair (Arlington)
Jim Bray (Plano)
George Craig (Corpus Christi)
Joel Glenn (Ft. Worth)
Colonel Dudley Thomas,
Department of Public Safety

Jess Ann Thomason (Midland)
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Issue 1

Strengthen Requirements for Criminal History Checks.

A key aspect of the regulation of the private security and private investigations industry is the ability of the Board to ensure the character and quality of persons in the industry. The Board tries to screen individuals with criminal backgrounds from working in this sensitive industry by requiring applicants for licensure to undergo criminal history checks. However, gaps in the agency's licensing process are impairing the agency's ability to protect the public.

- **Not all applicants for registration are required to go through a federal criminal history check.** The State requires applicants for registration to undergo criminal history checks. While most applicants with the Board receive both a state and federal criminal history check, unarmed security guards do not currently undergo federal criminal history checks. This omission increases the chance that someone with a criminal history in another state may be working as an unarmed security guard in Texas.
- **The Board has not consistently enforced or applied criminal history requirements.** By interpreting the law to enable it to allow persons with criminal histories to work in the security industry, the Board may be exposing the public to potentially harmful elements in this sensitive area.
- **The agency experiences delays in obtaining federal criminal background information.** Currently, the agency can not submit registrant information directly to federal agencies for a federal criminal background check, nor can it access information contained in federal criminal

data bases. The agency has to rely on the Department of Public Safety (DPS) as a go-between for this process to take place.

Recommendation

Change in Statute

A. Require all applicants to submit to state and federal criminal history checks.

This change would make unarmed security guards subject to the same background check procedures as are currently in place for other registrants. The Board would then have the ability to know about an applicant's criminal history in another state that a DPS check would not detect. As part of this recommendation, DPS would be authorized to establish a pool of all applicants denied registration by the Board based on past criminal activities. This would increase the Board's ability to process applicants in a timely manner.

B. Prohibit persons convicted of a felony or a Class A misdemeanor from working in the investigations and security industry. Prohibit persons convicted of Class B misdemeanors from working in this area for five years after the date of conviction unless the Board determines the crime is serious enough that the prohibition should be extended.

This change would remove all discretion for the Board to license persons convicted of more serious crimes unless they have been pardoned for reasons relating to a wrongful conviction. This change would also remove vague statutory language that allows for license disqualifications because of crimes of moral turpitude.

Persons convicted of more serious crimes would be prohibited from ever being licensed.

C. Designate the Board as a criminal justice agency for the limited purpose of conducting criminal history checks for applicants for a license or license holders. In addition:

- **Clarify that Board licenses are conditional on the receipt of criminal history information from the federal government or any other law enforcement or criminal justice entity, and**
- **Specify that DPS must continue to assist the Board in performing criminal background checks until the federal agencies responsible for providing criminal background information allow the Board to have direct access to this information for the limited purpose of conducting these criminal background checks.**

This change would expedite the licensure process by allowing the agency to directly access federal criminal history information from the National Criminal Information Center. As a criminal justice agency the Board would be able to receive this information faster than it currently does.

Fiscal Impact

This recommendation would not cause a fiscal impact to the State. The agency would be able to collect additional fees from applicants to cover the costs of additional FBI checks.

Issue 2

Restructure the Board to Improve Its Performance and Accountability.

The agency's policymaking body is composed of eight members, with six appointed by the Governor and two serving in an ex-officio capacity. The current structure of the Board has basically remained unchanged since the agency's creation while the regulatory duties of the Board have greatly expanded. As a result, the Board has experienced problems in its ability to oversee the agency and in performing its policymaking and administrative duties.

Recommendation

Change in Statute

- A. Add two public members and one industry member to the Board and remove the ex-officio position for the Office of the Attorney General. One each of the industry members would represent security guards, private investigators, and alarm system interests. The remaining industry member would represent the entire private investigations and security services industry.**

This change would make the Board comparable in size to most occupational licensing boards, and would give its members the improved ability to develop areas of expertise by focusing on particular issue areas. Providing for additional public members would ensure greater objectivity in the agency's oversight.

- B. Add a specific requirement for the Board to provide policy direction to agency management on how the agency will carry out its statutory responsibilities.**

This change would require the Board to more directly guide the agency in the administration of the Act.

Adding public members to the Board would help ensure objectivity.

Fiscal Impact

This recommendation would result in a small cost to the State associated with travel and expenses for the newly-appointed members. Based on an estimated \$2,500 per diem for Board members, the cost of adding three additional members would be about \$7,500 annually.

Issue 3

Expand and Strengthen the Board's Regulatory Responsibilities.

Through its regulations, the Board controls who may work in the private security and private investigations industry. Because people who work in these professions are in a position of authority over the public, the State has an interest in ensuring their fitness for performing these jobs. However, because of exemptions and other loopholes, the statute does not adequately control the activities of individuals who may pose a threat to the public.

The statute exempts from the Board's licensing requirements any unarmed security employee working solely for an employer in connection with the affairs of the employer. This provision effectively excludes an employer's own security force from meeting minimum statutory qualifications - such as not having a serious criminal history - designed to protect and promote public safety. In addition, the exemption that allows attorneys to provide private security and private investigation services is vague with regards to permissible activity under the law.

Finally, under the statute, only licensed persons can issue arrest warrants to persons who have skipped bail. An unlicensed person performing this activity is guilty of a Class A misdemeanor. However, this penalty does not

adequately deter unlicensed and unqualified persons from engaging in this high-risk activity.

Recommendation

Change in Statute

A. Eliminate the exemption from the Act for uniformed security employees of businesses that are open to the public for commercial wholesale or retail activities.

This change would require licensure for employees who provide private security services and the businesses that employ them. Among other things, this change would require the Board to perform criminal background checks on uniformed employees of these businesses, ensure that security managers or supervisors of these businesses are qualified to perform these activities, and ensure that these businesses carry required levels of liability insurance.

B. Clarify exception from the regulation under the Act for attorneys to specify actions "while engaged in the practice of law," instead of "in performing his duties."

This change would clarify the provision currently in law that allow attorneys performing their duties to be exempt from licensure.

C. Make persons who serve warrants without a license to individuals who have skipped bail guilty of a state jail felony.

This change would increase the penalty for acting as bounty hunter without a license to a state jail felony.

The agency will regulate all uniformed officers that work for businesses open to the public.

Fiscal Impact

These recommendations would not have a cost to the State because the agency is funded through licensure fees. While the recommendation to eliminate the exemption for employees providing security services for their employers would increase the number of persons regulated by the Board, any increase in agency costs from expanded regulatory activity would be offset by receipts collected from the regulated industry.

Issue 4

Update and Standardize License Renewal and Training Requirements.

The Board's statute specifies who is to be regulated by the Board and under what conditions or standards. To allow for changing circumstances, updates need to be made to these existing licensing requirements.

Recommendation

Change in Statute

A. Improve firearms training requirements for commissioned security officers.

This change would update firearm training requirements which have not been changed since the passage of the Act in 1969. Under this recommendation, applicants would be required to satisfy the requirements of the Concealed Handgun Weapon Training Qualification Act administered by DPS before they could be certified as a commissioned security guard.

Firearm training should match that required to carry a concealed weapon.

B. Require applicants to be examined on knowledge of applicable laws.

This change would improve licensee compliance with the Act and Board rules by ensuring that applicants are tested in these areas as part of their licensing examination.

C. Reduce the renewal period for regulating unarmed security guards from four to two years.

This change would require a consistent two year registration renewal periods for all types of applicants regulated by the Board

Fiscal Impact

This recommendation would not result in a significant fiscal impact to the State. The reduction in the renewal period for non-commissioned security guards would be offset by the reduction in the renewal fee.

Issue 5

Strengthen Enforcement by Clearly Authorizing Administrative Penalties and by Making Enforcement Data More Accessible.

The agency regulates an industry that can have a significant impact on the safety and welfare of Texas residents. Through enforcement actions against violators, the agency seeks to ensure that the public interest is protected. However, the statute does not give the agency clear authority to assess administrative penalties and does not provide sufficient guidance on how to apply them. In addition, the agency's enforcement information is not easily accessible for public or consumer use.

Recommendation

Change in Statute

A. Clarify the agency’s authority to levy administrative fines and provide the standard criteria for applying these fines.

This recommendation would clearly authorize the Board to apply administrative penalties against suspected violators of the statute and Board rules. This change would also broaden the application of these penalties so that they may be used within a range of sanctions available to the agency to achieve compliance by the regulatory community.

B. Require the agency to make enforcement information more accessible to the public and consumers.

This change would require that the agency develop a more efficient and accessible method of communicating regulatory information.

Fiscal Impact

This recommendations would not have a significant fiscal impact to the State.

Issue 6

Streamline Agency’s Licensing Function.

The Board reviews individual applications and renewals to ensure that applicants are qualified, do not have criminal records, work for a properly licensed company, and comply with all applicable state laws and Board rules. Applicants pay licensing fees to the Board and are subject to fines if they violate state laws and Board rules. Over time, changes in the agency’s statute have lead to procedural inefficiencies being built into the agency’s business processes.

Recommendation

Change in Statute

A. Eliminate requirement to notify sheriffs and police chiefs regarding applications for licensure.

This change would remove a provision that is no longer necessary and that duplicates the agency’s basic licensing function which is designed to evaluate a person’s fitness for licensure.

B. Eliminate requirement for letters of termination and allow individuals to transfer to another employer without resubmitting an application.

This change would delete redundant and unnecessary provisions, and standardize registration requirements between unarmed security guards and other types of occupations regulated by the Board .

C. Provide means for electronic funds transfer for fee and fine payments.

This change would streamline the Board’s operations and would assist the regulated community in submitting required fees and fines more quickly and efficiently.

Fiscal Impact

This recommendation would not result in a significant impact to the State. Savings realized through increased business process efficiencies would be redirected towards other key agency functions.

Notifying sheriffs and police chiefs of license applications is no longer needed.

Issue 7

Transfer the Agency's Administrative Hearings to the State Office of Administrative Hearings.

The agency conducts administrative hearings on enforcement actions involving licensees and registrants. The agency's administrative law judge (ALJ) presides over the hearings, and the agency's staff act as prosecutors in these hearings. Recommendations of the ALJ are approved by the Board before adoption. The Board also serves as an appellate body in these cases. The current hearing process lacks independence and creates an opportunity for ex-parte communication. In addition, statewide accessibility to the Board's hearings is limited.

Recommendation

Change in Statute

Transfer the Agency's Administrative Procedure Act Hearings to the State Office of Administrative Hearings.

This change would make the hearing process more fair for all participants by providing a higher level of objectivity. This change would also allow the Board to conduct its hearings in more cities across the State.

Fiscal Impact

The fiscal impact of this transfer cannot be determined because the specific hearings costs for the agency will depend on the payment structure determined by the Legislature, and whether the agency is able to reduce its legal division staff. Historical data indicates that overall costs related to administrative hearings transferred to SOAH have been reduced by approximately 39 percent.

Issue 8

Continue the Agency for Four Years.

The agency was created in 1969 by the Legislature to regulate the investigations and security industry. Since its creation, the agency's scope of regulatory duties has expanded considerably. While no other state entity has the expertise to perform the agency's functions, ongoing legislative concerns have been raised regarding the Board's ability to appropriately fulfil its policymaking role and manage the affairs of its staff.

Recommendation

Change in Statute

Continue the Texas Board of Private Investigators and Private Security Agencies for Four Years.

The shorter review time-frame would allow the Legislature to monitor the progress of the agency and re-visit any concerns that may remain unresolved.

Fiscal Impact

If the Legislature continues the functions of Texas Board of Private Investigators and Private Security Agencies with the current organizational structure, the agency's annual appropriation of about \$4.0 million would continue to be required for the operation of the agency.

Sunset review in four years will allow the agency's progress to be re-visited.

Other Agencies

Advisory Commission on State Emergency Communications



Key Agency Duties

- Enhances public safety by facilitating the local implementation and maintenance of 911 emergency telephone service through regional Councils of Government.
- Provides access to poison control information telephone services throughout the State.

Appropriation for FY 1999: \$13.7 million

Number of Employees for FY 1999: 20

Statutory Reference: Health and Safety Code, Chapter 771

Board Members (16)

Judge Ron Harris, Chair (Plano)	Harold Wayne Miller (Killeen)
Dawn Heikkila, Vice Chair, ex officio, Criminal Justice Policy Council	Bill Munn, Ph.D. (Fort Worth)
Mayor Glenda Burdick (Rockport)	Senator David M. Sibley (Waco)
Judge Jimmy Burson (Silverton)	Judge Wayne Whiteaker (Littlefield)
Ernest J. Carey (Kingwood)	Randall K. Elliston, ex officio, Texas Department of Public Safety
Representative Bill Carter (Fort Worth)	Dennis Perrotta, Ph.D., ex officio, Texas Department of Health
Patrick A. Craven (Irving)	Jim Ray, ex officio, Texas Association of Regional Councils
Eloy A. DeLaO, Jr. (Corpus Christi)	
Representative Terry Keel (Austin)	

Agency Head: James D. Goerke, Executive Director, (512) 305-6911

Recommendations

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2. Change the Commission's Membership 177
3. Move the State's 911 Funds into the Treasury 178
4. Improve Collection of the State's Emergency Communication Fees 180
5. Permit Emergency Communication Districts to Voluntarily Consolidate 181

Issue 1

Continue the Commission for 12 Years and Assign it the Role of Speaking for the State's 911 System.

The Advisory Commission on State Emergency Communications assists regional councils of governments in providing 911 telephone service and, in partnership with the Texas Department of Health, operates the State's poison control information telephone network. The Commission has no authority over Texas cities and Emergency Communication Districts that have chosen not to be part of the State 911 system or clear authority to address state and federal regulatory bodies as a spokesperson for the whole state on 911 issues.

Recommendation

Change in Statute

- A. Continue the Advisory Commission on State Emergency Communications for 12 years.**
- B. Change the name of the agency to the Commission on State Emergency Communications.**
- C. Assign the Commission the role of coordinating statewide information on 911.**

These changes would continue the Commission, change its name to reflect its mission, and make the Commission responsible for coordinating 911 information among the 75 separate 911 entities in the state in proceedings, such as before the Public Utility Commission or Federal Communications Commission. It does not,

however, preclude other parties from addressing these regulatory bodies as they determine necessary.

Fiscal Impact

If the Legislature continues the current functions of the Commission, using the existing organizational structure, the Commission's annual appropriations of \$13.7 million continue to be required for the operation of the agency, maintenance of the Poison Control Network, and for 911 equalization grants to the regional councils of governments.

If the Commission and its statute are abolished under the Sunset Act, the Emergency Service Fee, Wireless Service Fee, 911 Equalization Surcharge, and Poison Control Surcharge would also be abolished. As a result, the State and local governments would lose \$38 million annually in revenue that currently supports the 911 and poison control systems.

Issue 2

Change the Commission's Membership.

The 16-member Advisory Commission on State Emergency Communications is composed of 12 appointed members and four ex officio members. Of the 16 members:

- the Governor appoints eight, including representatives of the State's three largest telephone companies; members of a municipal body, a county commissioner's court, and an Emergency Communication District; and two non-specified appointments;
- the Lieutenant Governor and the Speaker of the House each make two non-specified appointments; and

- the four ex officio members represent the Department of Public Safety, Criminal Justice Policy Council, Department of Health, and the major association representing regional planning commissions.

The Commission's composition has not been modified to reflect the change in its mission from establishing a statewide 911 system to maintaining one. The result is a membership that may have too direct an interest in the decisions of the Commission and no longer provides the needed expertise.

Recommendation

Change in Statute

Reduce the Commission to nine voting members.

- A. Reduce the size of the Advisory Commission on State Emergency Communications from 16 to nine members plus three non-voting ex officio members.**
- B. Restructure the Commission's membership as follows:**
- **Remove the three members representing the largest local telephone service providers;**
 - **Replace the Executive Director of the major association representing regional planning commissions with a board member of a council of governments;**
 - **Remove the representatives of the Department of Public Safety and the Criminal Justice Policy Council;**
 - **Provide that the representative of the Department of Health serves as a non-voting ex officio member;**
 - **Add the Executive Director of the Public Utility Commission, or a designee, as a non-voting ex officio member;**

- **Add the Executive Director of the General Services Commission, or a designee, as a non-voting ex officio member;**
- **Specify that the representative of a municipal government must be from a home-rule city with a pre-existing 911 system;**
- **Specify that the representative of a county government must be from a county with a population of less than 50,000; and**
- **Specify that five members represent the general public, with one appointed by the Governor and two each appointed by the Lieutenant Governor and the Speaker.**

This recommendation would reduce the Commission's composition to nine voting members and allow for more efficient policymaking.

Fiscal Impact

This recommendation would have a small, positive fiscal impact to the State. Reducing the size of the Commission would decrease travel and other expenses estimated at \$1,500 annually.

Issue 3

Move the State's 911 Funds into the Treasury.

Telephone customers fund the State's 911 programs through three fees collected by local exchange providers. The 911 Equalization Surcharge is remitted to the State Treasury and is subject to the appropriations process. The Wireless Service Fee is remitted to the Commission, but is not subject to the appropriations process. The Emergency Service Fee is remitted directly to the regional councils of government (COGs).

The Commission oversees a strategic planning process that requires COGs to submit five-year plans detailing how funds will be spent to implement 911 service. In addition to COGs, 27 cities and 24 Emergency Communication Districts provide 911 services to their citizens. These cities and districts operate outside the authority of the Commission and represent much of the urban population in Texas. COGs, with the Commission's help, provide 911 services mainly to rural areas, representing 37 percent of the state's population.

- **The Legislature's accountability for State 911 funds is limited.**

The Legislature only controls 21 percent of the State's 911 program funds through the appropriations process. The remaining 79 percent goes directly to the COGs or to the Commission without legislative oversight. This level of oversight limits the Legislature's ability to strategically plan and set priorities for the State's 911 program.

- **The Commission's ability to oversee the spending of 911 funds is also limited.**

The strategic plans submitted by COGs are not contractual documents, but only financial planning documents. These plans do not include standard contractual provisions such as performance measures and sanctions. This has limited the Commission's ability to control how the State's 911 funds are spent. Without these provisions, COGs have paid unnecessarily high costs for equipment and services. In addition, the strategic planning process does not provide the Commission with information concerning each COG's vision of how 911 service should be implemented.

Recommendation

Change in Statute

- Require local exchange service providers to remit revenue from the Emergency Service Fee to the Commission.**
- Require the deposit of all revenues from the Emergency Service Fee and Wireless Service Fee to a dedicated account in the State Treasury, for distribution by the Commission to 911 entities.**
- Specify that all 911 fees are subject to the legislative appropriations process.**

These changes would simplify 911 funding by requiring the remittance of all 911 fee revenue to the State Treasury instead of to 24 separate COG regional accounts. Making all State 911 funds subject to the appropriations process would allow the Legislature greater control over how the funds are spent.

To ensure 911 revenue is used only for the 911 program, these funds would be placed in a dedicated account in the State Treasury for the sole purpose of funding 911 services. Further, the dedicated fund would not be subject to statutory provisions permitting the consolidation of funds or the sweeping of fund balances.

These recommendations would not affect any emergency communication fees collected within Emergency Communications Districts and cities with pre-existing 911 systems. Further, the portion of the Wireless Service Fee revenue collected in these cities and districts would not be deposited in the State Treasury or subjected to the appropriations process.

Place 911 fees in the Treasury subject to appropriation.

D. Clarify that regional plans submitted to the Commission by Councils of Governments include:

- two years of projected financial operating information, and
- five years of strategic planning information.

E. Require the Commission to biennially prepare a State 911 strategic plan based upon information provided in regional strategic plans and to submit the plan to the Legislature and Governor with its biennial legislative appropriations request.

F. Require the Commission to contract with Councils of Governments for 911 services, based upon a regional biennial operating plan.

These changes would increase accountability and long-range planning for the State's 911 system and help the Legislature make decisions regarding the future of the State's 911 program. The Commission should ensure that each COG receives 100 percent of the Emergency Service Fee revenues collected in its region and Wireless Service Fee revenues in proportion to its region's population. The Commission would make quarterly disbursements and have the authority to withhold funds if a COG fails to follow contract provisions, statute, or Commission rules.

Management Action

A. The Commission's regional contracts should include standard contractual provisions.

B. The Commission should implement standards for how COGs spend State 911 funds, procedures for competitive and cooperative purchasing, and efficiency standards for 911 answering point operation.

Set standards for how COGs spend 911 funds.

Including standard contractual provisions and implementing standards for spending would strengthen the contracting relationship between the Commission and the COGs and improve accountability for how the State's 911 funds are spent.

Fiscal Impact

These recommendations would have a positive fiscal impact to the State. A gain in interest revenue would result from placing the Emergency Service Fee and Wireless Service Fee revenue in the State Treasury. This gain would equal \$80,000 in fiscal year 2000 and \$144,000 during each subsequent fiscal year.

A one-time gain in the amount of funds available for certification in the General Revenue Fund would result from this recommendation. This gain would total \$3.3 million from the Emergency Service Fee and \$300,000 from the Wireless Service Fee for the 2000-01 biennium. This one-time gain is based on the assumption that the two fees will be distributed to COGs on a quarterly basis.

Issue 4

Improve Collection of the State's Emergency Communication Fees.

Telephone companies collect the consumer fees that fund the State's 911 system. These companies may hold three of the four fees for 60 days and earn a two percent administrative fee. The State's emergency fees cost more than \$1 million annually to collect because of the long remittance periods and high administrative fees.

To ensure proper and timely remittance, the Commission audits telephone companies and assesses late payment penalties. However,

insufficient audit coverage of telephone companies and poor enforcement of late payment penalties do not ensure that companies properly remit fees or that the State maximizes the collection of 911 revenue.

Recommendation

Change in Statute

- A. Require telephone companies to remit the Emergency Service Fee, 911 Equalization Surcharge, and Poison Control Surcharge to the State within 30 days of collection.**
- B. Reduce the administrative fee retained by telephone companies for the collection of all emergency communication fees from 2 to 1 percent.**

These recommendations would maximize the State's emergency communications revenues by ensuring that all fees are remitted in a timely manner with an appropriate administrative service fee.

- C. Transfer responsibility to audit telephone companies for proper remittance of emergency fees to the Comptroller of Public Accounts.**
- D. Transfer responsibility to assess and collect late payment penalties to the Comptroller of Public Accounts.**

Assigning responsibility for auditing of the fees to the Comptroller would provide greater assurance that the fees are properly collected and remitted. Transferring authority to enforce late payment penalties to the Comptroller's Office would also help ensure better collection of fines. The Comptroller's Office should establish collection procedures and collect fines from telephone companies that fail to timely remit emergency fees.

Fiscal Impact

These recommendations would have a positive fiscal impact on the State due to the reduced remittance periods and administrative fees. A gain in interest revenue would result from the fees being remitted sooner than they currently are and from telephone companies keeping a smaller percentage for administrative purposes. Together, these gains would total about \$479,500 each year.

These recommendations would also likely result in a positive fiscal impact on the State due to increased audit coverage and collection of late payment penalties. However, the amount of increased revenue cannot be estimated, because the amount of improperly remitted fees and the amount of late penalties the Comptroller may collect cannot be predicted. Further, the amount spent by the Commission to perform audits of telephone companies, which totaled \$58,500 in fiscal year 1997, would no longer be needed.

Because the Comptroller already audits telephone companies for sales tax, the transfer of audit responsibilities will have no significant impact on that office. However, the recommendation to transfer late payment penalty responsibilities to the Comptroller will have a one-time cost to hire four contract programmers for six months to develop an automated collection system.

Remit 911 fees to the State within 30 days of collection.

Issue 5

Permit Emergency Communication Districts to Voluntarily Consolidate.

Twenty-four Emergency Communication Districts provide 911 services in 29 counties — primarily Texas' metropolitan counties. These 911 operations are overseen by independent governing boards operating under statutory authority, separate from

Council of Government governing structures and oversight from the Advisory Commission on State Emergency Communications. Under their enabling statute, districts are authorized to collect fees from telephone customers to cover the cost of providing 911 services. Currently, they do not have specific authority to voluntarily consolidate.

This recommendation would permit districts to reduce administrative redundancies by voluntarily joining together.

Fiscal Impact

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

Recommendation

Change in Statute

Amend the statutes of Emergency Communication Districts to permit the voluntary joining of two or more districts.

Texas Hospital Equipment Financing Council



Key Agency Duties

- Preserving the validity and enforceability of bonds, initially issued to provide loans for hospital equipment, that were still outstanding on September 1, 1989.

Total Appropriation FY 1999: \$0

Employees FY 1999: None (Comptroller's Office provides staff assistance)

Statutory Reference: Texas Health and Safety Code, Section 224.001

Board Members (3)

- Dan Patterson, Chair (Dallas)
- Calvin Person, Vice Chair (Dallas)
- Richard F. Kiepfer, M.D. (Boerne)

Agency Head: None

Recommendation

1. Abolish the Texas Hospital Equipment Financing Council 185

Issue 1

Abolish the Texas Hospital Equipment Financing Council.

The Legislature created the Texas Hospital Equipment Financing Council to provide low-cost loans to public and private hospitals, especially in rural areas, for the purchase of hospital equipment.

The Council never fulfilled the Legislature's expectations for providing financing for hospital equipment. Because of its lack of success, in 1989, the Legislature limited the Council's powers and duties to only providing for the validity and enforceability of the bonds outstanding at that time. The Council no longer has any outstanding bonds.

Recommendation

The Hospital Equipment Financing Council should be abolished under the terms of the Sunset Act.

Under this recommendation, no legislation would be needed to abolish the Council. The Council would simply be abolished on its Sunset date of September 1, 1999. Because all outstanding bonds have been paid, the standard one-year period for an abolished agency to conclude its affairs would be unnecessary.

Fiscal Impact

This recommendation would have no fiscal impact to the State. The Hospital Equipment Financing Council receives no State funding.

Abolishing this Council would simply eliminate an agency with no ongoing function.

Texas Commission on Human Rights



Key Agency Duties

- Enforces state equal employment opportunity (EEO) and fair housing laws.
- Investigates and resolves employment and housing discrimination complaints as an alternative to litigation.
- Provides training and technical assistance to familiarize public and private employers with EEO laws.

Appropriation for FY 1999: \$2.4 million

Number of Employees for FY 1999: 47

Statutory Reference: Government Code, Chapter 461

Commission Members (6)

Laura Ayoub Keith, Chair (El Paso)
Anna Maria Farias (Crystal City)
Ransom Howard (Port Arthur)
David Manning (Fort Worth)
Lynn Rubinett (Austin)
Charles W. Taylor, Jr. (Houston)

Agency Head: William Hale, Executive Director, (512) 437-3450

Recommendations

1. Enhance the Commission's Public Outreach and Investigator Training Efforts 189
2. Strengthen the Commission's Technical Assistance and Training Roles 189
3. Ensure Compensatory Relief for All Public Employees Who Suffer Employment Discrimination 191
4. Continue the Texas Commission on Human Rights for 12 Years 191

Issue 1

Enhance the Commission’s Public Outreach and Investigator Training Efforts.

The Commission on Human Rights seeks to reduce discrimination in employment and housing by investigating and resolving complaints before they result in court action. Agency investigators review discrimination complaints to ensure that they are within the Commission’s authority.

Because the Commission does not adequately provide material to the public that clearly and simply explains the complaint resolution process, it does not prepare the public for the requirements for filing a proper complaint.

In addition, the agency does not provide formal training to guide agency investigators in how to approach complaints.

Recommendation

Change in Statute

- A. Require the Commission to make information more accessible to the public by establishing a toll-free telephone service and using other outreach methods such as the Internet to publicize its complaint process.**
- B. Require the Commission to develop plain-language material about its complaint resolution process.**

These changes would help the public understand the requirements for filing and defending complaints. A full discussion of the Commission’s expectations, information needs, and time frames would allow participants to develop realistic expectations of the process and allow investigators to better prepare case files used by Commission members to make decisions. The

Commission would also be required to make available equivalent public information and outreach services for persons with disabilities.

- C. Require all newly-hired investigators to complete a formal training curriculum before conducting investigations.**
- D. Require all investigators to complete an annual training update.**
- E. Require the Commission to develop an investigation procedural manual to be updated biennially.**

Requiring new investigators to receive formal training and current investigators to undergo periodic re-training would supplement the Commission’s current training efforts. The investigation procedural manual would assist investigators in doing their job.

Fiscal Impact

Establishing and maintaining a toll-free telephone number and providing public information in alternative formats such as braille, large print, and audio cassette may cause a small fiscal impact.

The agency needs a simple description of its complaint process.

Issue 2

Strengthen the Commission’s Technical Assistance and Training Roles.

Under the authority of riders contained within the General Appropriations Act, the Commission provides training and technical assistance to familiarize employers with equal employment opportunity (EEO) laws to prevent discrimination. Training and technical assistance can involve such activities as reviewing workforce diversity plans and compiling statistics on the State’s minority workforce. State agencies and public universities are the primary recipients of the Commission’s training and technical assistance activities.

The agency's EEO duties should be set in statute.

Establishing important EEO responsibilities by rider, rather than by statute, hinders the Commission's ability to guide EEO efforts of state agencies and public universities. The Commission does not conduct comprehensive analyses of the State's workforce that could be used to assess how well the State employs minorities, women, and other protected groups such as persons with disabilities. The Commission also does not compile statewide information on discrimination complaints.

Recommendation

Change in Statute

- A. Require the Commission to conduct annual workforce analyses of state agencies and public institutions of higher education.**

This change would place in statute the provisions from the appropriations bill rider that require the Commission to compile workforce information by job classification for women and minorities in state agencies and public universities. It would also expand on this rider language to require the Commission to compile workforce information for persons with disabilities and to provide detailed analyses and studies of the State's work force.

- B. Require the Commission to establish a technical assistance program on equal employment opportunity laws for state agencies and public institutions of higher education that includes reviewing and revising agencies' personnel policies and procedural systems and workforce diversity plans.**

As above, this recommendation would place in statute provisions currently in appropriations rider to ensure that the Commission continues a comprehensive technical assistance program to assist agencies in decreasing the likelihood of

employment discrimination. It would also continue many of the Commission's current activities, such as reviewing and monitoring state agencies' and universities' personnel procedures relating to employee recruitment, selection, evaluation, promotion, and workforce diversity.

- C. Require the Commission to provide comprehensive equal employment opportunity training to all state agencies and public institutions of higher education.**

This recommendation would also codify language currently in an appropriations rider to ensure that the Commission continues to provide comprehensive training to familiarize all state agencies and public institutions of higher education with EEO laws and to prevent employment discrimination.

- D. Require the Commission to collect and report statewide data on illegal discriminatory activity in the State.**

Collecting and reporting detailed information on employment and housing discrimination complaints from state, federal, and local commissions would serve much the same interests as reporting statewide employment discrimination information.

Fiscal Impact

Because this recommendation would codify existing requirements for compiling and reporting EEO data, it would not have an additional fiscal impact to the State. The Commission already has a technical assistance and training program in place, and already compiles agency and university workforce information. The additional requirements to analyze this information and to report statewide information on employment discrimination complaints could be performed without additional fiscal impact.

Issue 3

Ensure Compensatory Relief for All Public Employees Who Suffer Employment Discrimination.

In 1993, the Legislature adopted provisions to conform the state law with federal law, specifically allowing courts to award compensatory damages for employees who have experienced discrimination.

However, the law does not allow employees of small governmental entities to receive compensatory relief. Other statutes, such as the Texas Whistleblower Act and Texas Tort Act, allow public employees to recover compensatory damages regardless of the size of their employer.

Recommendation

Change in Statute

Specify that compensatory damages, already allowed under the Texas Commission on Human Rights Act, apply to all governmental entities, regardless of size.

This change would extend compensatory damages provisions to public employees of governmental entities with fewer than 15 employees, giving them the same rights as other public employees.

Fiscal Impact

This recommendation could have a fiscal impact to the State, but the exact amount cannot be estimated. Upon a finding of discrimination, a court could make these smaller state agencies pay compensatory damages of up to \$50,000.

Issue 4

Continue the Texas Commission on Human Rights for 12 Years.

The Commission enforces state equal employment opportunity and fair housing laws that prohibit discrimination on the basis of factors such as race, sex, age, religion, national origin, and disability status. The Commission investigates and resolves complaints as an alternative to litigation, and provides training and technical assistance to state agencies and private businesses on the federal and state anti-discrimination laws. In addition, the Commission's complaint resolution process provides individuals and businesses a fair and impartial way to settle disputes without going to court.

Recommendation

Change in Statute

Continue the Texas Commission on Human Rights for 12 years.

This recommendation would continue the Commission for the usual 12 years with a new Sunset date of September 1, 2011.

Fiscal Impact

If the Legislature continues the current functions of the Commission, using the existing organizational structure, the Commission's annual appropriation of approximately \$2.4 million in fiscal year 1999 would continue to be required for operation of the agency.

All public employees should have access to the same redress for employment discrimination.

Texas Incentive and Productivity Commission



Key Agency Duties

- Administers two employee involvement programs that target and reward efficient, cost-saving government practices.
- Recognizes and rewards employees for their efforts to save money, increase revenues, and improve services.
- Encourages the development of productive and innovative state agencies and employees.

Appropriation for FY 1999: \$224,426

Number of Employees for FY 1999: 6

Statutory Reference: Government Code, Chapter 2108

Commission Members (9)

Governor George W. Bush - represented by Vickers B. Meadows, Chair
Lieutenant Governor Rick Perry - representative pending
Comptroller Carole Keeton Rylander - represented by William D. Eggers
Mike Sheridan, Texas Workforce Commission
Leonard Rauch, Texas Higher Education Coordinating Board - represented by
Dr. Brian Graham-Moore
Janice E. Collins (San Antonio)
John M. Moore (Stephenville)
Sherry L. Phelps (Dallas)
State Treasurer (vacant)

Agency Head: Ed Bloom, Executive Director, (512) 475-2399

Recommendations

1. Create a Single Employee Involvement Program 195
2. Fund TIPC through General Revenue, Restructure its Membership, and Re-evaluate in Four Years 195
3. Authorize a \$50 Employee Recognition Award 197

Issue 1

Create a Single Employee Involvement Program.

Currently, TIPC administers two separate employee involvement programs, the State Employee Incentive Program (SEIP) and the Productivity Bonus Program (PBP). Both programs recognize and reward employee suggestions that save money. Having two similar, yet separate programs is confusing to agencies and employees, which discourages participation. Additionally, participating agencies cannot retain all the realized savings. The savings are allocated among TIPC, the suggester(s), the participating agencies, and the originating fund. The allocation formulas are complicated and vary depending on the program. Therefore, many agencies do not feel that participating in the programs is worthwhile.

Also, PBP rewards unoriginal approaches to basic good management practices, including delayed hiring. These inherent deficiencies have led to decreases in both participation and savings, thus reducing the effectiveness of the programs.

Recommendation

Change in Statute

- A. Abolish the Productivity Bonus Program and maintain, within the State Employee Incentive Program, the function of recognizing and rewarding teams, divisions, or entire agencies for reducing agency costs without reducing service quality.**

This change would simplify Texas' approach to employee involvement programs by merging the main elements of PBP into SEIP, thus creating a single employee incentive program. This program would recognize all

aspects of employee involvement. Abolishing PBP would eliminate an ineffective program and allow the Commission staff to focus on increasing the effectiveness and efficiency of SEIP.

- B. Eliminate delayed hiring as an eligible suggestion for reducing agency costs.**

Delayed hiring does not constitute improvement in the service, productivity, or efficiency of a state agency. Practices such as delayed hiring are inherent in state agency operations and should not be eligible for a special monetary award.

Fiscal Impact

The recommendation to eliminate PBP will not result in a direct fiscal impact to the State. Because a portion of the savings realized through this program is allocated to the fund from which the savings were realized, implementation of this recommendation would result in a hypothetical cost of \$633,316 to the General Revenue Fund. However, since savings realized through the PBP are not deducted from the State's budget, removal of the program will not result in an actual cost to the State. In addition, the main elements of the program will be merged with SEIP under this recommendation, resulting in a continuation of savings from those elements.

Creating a single employee incentive program should reduce confusion and increase participation.

Issue 2

Fund TIPC through General Revenue, Restructure its Membership, and Re-evaluate in Four Years.

Although TIPC has achieved success through its programs, inherent disincentives, primarily the way in which program savings are allocated, have decreased participation. Any savings achieved through the programs are allocated according to complicated formulas that are different for each program. These

Continuing TIPC for four years would allow the Legislature to evaluate the success of the suggested changes.

formulas require a majority of the savings to be allocated to fund TIPC's operations and to be returned to the originating fund. Because the allocation formulas are complicated and do not allow the participating agencies to retain most of the savings, many agencies choose not to participate in the programs.

Additionally, the Commission's current membership needs to be updated. The abolishment of the State Treasury in 1996 left a position unfilled and having only one state agency administrator limits the Commission's perspective of how TIPC's programs operate in state agencies.

Also, allowing Commission staff to participate in the Commission's programs and having Commission members approve or deny rewards and recognition for its staff may appear as a conflict of interest.

Recommendation

Change in Statute

A. Simplify the savings transfer and allocation process by:

- **allowing agencies to retain all savings except for the portion used for suggester awards, and**
- **funding TIPC operations through general revenue without a transfer from allocated savings.**

B. Restructure the membership of the Commission by:

- **replacing the position of the Texas Workforce Commission (formerly the Texas Employment Commission) Agency Administrator with a Governor-appointed agency director from an agency with more than 1,000 FTEs,**

- **replacing the position formerly held by the Treasurer with a Governor-appointed agency director from an agency with fewer than 1,000 FTEs, and**
- **requiring that these agency director positions have two-year terms, with the term of one member expiring in February of each even-numbered year and the term of the remaining member expiring in February of each odd-numbered year.**

C. Exempt TIPC staff from participation in the Commission's programs.

D. Continue the Texas Incentive and Productivity Commission for a four-year period to allow for a re-evaluation once barriers to participation have been removed.

Eliminating the complicated allocation formulas and allowing agencies to retain the savings realized through these programs would eliminate the TIPC's current method of finance. Therefore, if the Commission and its programs are to continue, the Legislature would need to appropriate the funding out of the General Revenue Fund, resulting in a more stable method of finance for the Commission and allowing the agency to focus more effort on administering and promoting participation in its programs.

Elimination of the allocation process would allow agencies participating in TIPC's programs to retain the majority of any realized savings, thus increasing the incentive to participate. Participating agencies would be able to reinvest the savings internally according to their budgetary needs instead of transferring the majority of the savings to TIPC and the originating fund.

Restructuring the Commission membership to include two Governor-appointed agency head representatives would improve coordination and provide expertise on the implementation of TIPC's operations within state agencies.

These changes would also exempt the staff of the Commission from participating in its own programs, eliminating any appearance of a conflict of interest.

TIPC's functions would be continued for four years to allow the Legislature to determine whether changes made to remove the inherent barriers to participation actually result in broader program participation and increased savings.

Fiscal Impact

The changes will not result in a significant fiscal impact to the State. The State has averaged savings of \$1,278,364 per year through TIPC programs over the past 10 years. These savings will remain in place if TIPC is continued. However, these funds would not be transferred back to the General Revenue Fund or other originating funds under this recommendation. In addition, by removing barriers to incentive program participation, significantly greater savings would be expected.

The recommendation does, however, endorse the use of general revenue to fund the Commission's operations. Because the Commission is currently funded through a portion of the savings generated through its programs, removing this method of finance and using general revenue to fund the Commission could result in an annual cost of approximately \$224,426 to the State if the Commission receives general revenue appropriations.

Issue 3

Authorize a \$50 Employee Recognition Award.

Most employee suggestions submitted to TIPC are suggestions that conserve energy, enhance safety, improve customer service, or generate greater efficiency and/or

productivity. Although these suggestions are not able to show a hard dollar savings that can be tracked or certified, they represent creative and innovative proposals for positive change that should be recognized and rewarded.

Recommendation

Change in Statute

- A. Recommend that the Legislature authorize a \$50 recognition award for suggestions that improve State government, but for which the actual savings cannot be measured.**
- B. Specify that any such recognition award must be approved and awarded by the Texas Incentive and Productivity Commission and that this function may not be delegated to the Commission's staff.**

These changes would allow the Commission to grant a \$50 recognition award to an eligible state employee who makes a suggestion that is not otherwise eligible for financial award. The suggestion must relate to a state agency and either conserve energy, enhance safety, improve customer service, or result in the adoption of any other innovation or improvement that is approved by the Commission. These awards must be approved by the Commission. The staff of the Commission may not approve these recognition awards.

Fiscal Impact

This recommendation would result in an average fiscal impact of \$2,400 per year to fund a \$50 cash award. These figures are based upon an average of 48 non-monetary suggestions per year approved by TIPC in the past.

Across-the-Board Recommendations

Across-the-Board Recommendations

This section of the report briefly describes each of the Sunset across-the-board recommendations, with a chart detailing the application the ATBs to each of the agencies currently under review for the 76th Legislature.

Across-the-board recommendations (ATBs) are statutory administrative policies adopted by the Sunset Commission that contain “good government” standards for state agencies. These policies are an outgrowth of the Sunset review criteria as set out in the Sunset Act and have resulted from recurring problem areas identified through almost 300 Sunset reviews. The ATBs are designed to ensure open, responsive, and effective government.

The across-the-board recommendations are applied to every state agency reviewed by the Sunset Commission, unless a clear reason to exempt the agency is identified. Some Sunset ATBs address policy issues related to an agency’s policymaking body, such as requiring public membership on boards or allowing the Governor to designate the chair of a board. Other Sunset ATBs require agencies to set consistent policies in areas such as how to handle complaints and how to ensure public input. Another set of ATBs deals exclusively with licensing standards and are applied only to agencies with regulatory functions.

General Across-the-Board Recommendations

1. Public Membership — 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 ensures appropriate representation.

2. Conflicts of Interest — 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. This guideline reduces the possibility of such a conflict. These provisions are necessary to prevent these kinds of relationships from developing.

3. Nondiscriminatory Appointments — 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. Governor Designates Presiding Officer — Provide for the governor to designate the presiding officer of a state agency’s policymaking body.

Presiding officers of state commissions and boards 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.

5. Grounds for Removal — 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 grounds for removal of a board or commission member exist 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. Standards of Conduct — 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. Board Member Training — Require training for members of policymaking bodies.

Members of state boards and commissions should be provided with adequate information and training to allow them to properly and effectively discharge their duties. This provision ensures that appropriate training is provided before an appointee actively begins serving on a board or commission.

8. Separation of Functions — 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. Public Input — 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. Complaint Information — Require information to be maintained on complaints.

The sunset review process has shown that complete and adequate information about complaints is maintained by some agencies. This recommendation ensures 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.

11. Equal Employment — 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.

Licensing Across-the-Board Recommendations

1. Renewal Time Frames — 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. Notification of Exam Results — 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. Endorsement and Reciprocity — 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. Provisional Licenses — 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. Staggered Renewal of Licenses — 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. Full Range of Penalties — 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. Advertising and Competition — 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.

8. Continuing Education — 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.

Application of ATBs to Agencies Currently under Review

For the 25 agencies currently under Sunset review for the 76th legislative session, each of the ATBs was evaluated and applied where appropriate. If the standard approach did not fit, the language was modified to fit the precise circumstances of an individual agency’s operations. In addition, some of the agencies under review this session had been previously reviewed and the ATB language was already in law or simply had to be updated. The following chart details the application of ATBs to agencies currently under review.

Across-the-Board Recommendations

Sunset Across-the-Board Recommendations — 1999												
	Aging, Department on*	Blind, Commission for the	Cancer Council	Childhood Intervention, Inter. Council on Early	Children's Trust Fund	Child Support Enforcement, Office of the Attorney General	Correctional Man. Health Care Advisory Committee	Criminal Justice, Department of	Deaf & Hard of Hearing, Commission for	Dev Disabilities, Office for the Prevention of		
General												
1. Public Membership	s	s	m	s	m	n/a	m	s	a	n/a		
2. Conflicts of Interest	u	u	m	u	n/a	n/a	m	u	u	m		
3. Nondiscriminatory Appointments	s	s	m	s	a	n/a	u	s	s	a		
4. Governor Designates Presiding Officer	s	s	a	a	s	n/a	a	s	s	a		
5. Grounds for Removal	u	u	m	s	m	n/a	m	s	u	a		
6. Standards of Conduct	u	u	a	u	a	a	a	s	u	a		
7. Board Member Training	a	a	a	a	a	n/a	a	a	a	a		
8. Separation of Functions	s	u	a	a	a	n/a	a	s	s	s		
9. Public Input	u/m	s	a	a	a	n/a	a	s	u	a		
10. Complaint Information	n/a	u	a	a	a	a	a	u	m	n/a		
11. Equal Employment	n/a	u	a	s	a	a	a	u	u	a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	m	n/a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	u	n/a		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	u	n/a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	s	n/a		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	s	n/a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	u	n/a		
a=apply; u=update; m=modify; s=already in statute; n/a=not applicable *Applied to the agency's proposed successor, the Aging Policy Council												

Sunset Across-the-Board Recommendations — 1999												
	Developmental Disabilities, Planning Council	Emergency Communications, Advisory Commission	Health & Human Services Commission	Health, Department of	TDH-Alzheimer's Council	TDH-Asbestos Council	TDH-Athletic Trainers Advisory Board	TDH-Diabetes Council	TDH-Emergency Medical Services	TDH-Lead Certification		
General												
1. Public Membership	s	a	n/a	u	n/a	n/a	a	s	n/a	n/a		
2. Conflicts of Interest	m	m	s	s	a/m	n/a	a/m	s	n/a	n/a		
3. Nondiscriminatory Appointments	m	a	s	s	a	n/a	a	u	n/a	n/a		
4. Governor Designates Presiding Officer	s	a	n/a	s	a	n/a	a	a	n/a	n/a		
5. Grounds for Removal	m	a	n/a	u	a	n/a	a	s	n/a	n/a		
6. Standards of Conduct	a	a	n/a	s	a/m	n/a	a/m	a/m	n/a	n/a		
7. Training	a	a	n/a	a	a	n/a	a	a	n/a	n/a		
8. Separation of Functions	a	a	n/a	s	a/m	n/a	a/m	a/m	n/a	n/a		
9. Public Input	a	a	s	s	a	n/a	a	a	n/a	n/a		
10. Complaint Information	a	a	m	u	a	n/a	a	a	n/a	n/a		
11. Equal Employment	a	a	m	s	n/a	n/a	n/a	n/a	n/a	n/a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	u	u	n/a	u	a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	a	s	n/a	s	a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	s	s	n/a	s	s		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	a	s	n/a	s	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	a	s	n/a	a	a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	u	u	n/a	u	u		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	a	a	n/a	a	a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	s	u	n/a	a	n/a		
a=apply; u=update; m=modify; s=already in statute; n/a=not applicable												

Sunset Across-the-Board Recommendations — 1999												
	TDH-Massage Therapy Registration	TDH-Medical Radiology Technician	TDH-Optician's Registry	TDH-Professional Medical Physicians Board	TDH-Radiation Advisory Board	TDH-Respiratory Care Practitioners	TDH-Statewide Health Coordinating Council	Hospital Equipment Financing Council	Human Rights Commission on	Human Services, Department of		
General												
1. Public Membership	n/a	n/a	n/a	a	n/a	n/a	s	n/a	s	u		
2. Conflicts of Interest	n/a	n/a	n/a	u	a/m	n/a	a/m	n/a	a	s		
3. Nondiscriminatory Appointments	n/a	n/a	n/a	u	a	n/a	a	n/a	n/a	s		
4. Governor Designates Presiding Officer	n/a	n/a	n/a	a	a	n/a	a	n/a	s	u		
5. Grounds for Removal	n/a	n/a	n/a	u	a	n/a	a	n/a	u	s		
6. Standards of Conduct	n/a	n/a	n/a	a/m	a/m	n/a	a/m	n/a	u	s		
7. Training	n/a	n/a	n/a	a	a	n/a	a	n/a	a	a		
8. Separation of Functions	n/a	n/a	n/a	a/m	a/m	n/a	a/m	n/a	u	s		
9. Public Input	n/a	n/a	n/a	a	a	n/a	a	n/a	s	s		
10. Complaint Information	n/a	n/a	n/a	a	a	n/a	a	n/a	u	s		
11. Equal Employment	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	s	s		
Licensing												
1. Time Frames	u	a	a/m	s	n/a	a	n/a	n/a	n/a	u		
2. Notification of Exam Results	a	a	a	s	n/a	a	n/a	n/a	n/a	s		
3. Endorsement and Reciprocity	u	s	n/a	u	n/a	s	n/a	n/a	n/a	n/a		
4. Provisional Licenses	a	a	n/a	a	n/a	s	n/a	n/a	n/a	u		
5. Staggered Renewal of Licenses	s	a	s	s	n/a	a	n/a	n/a	n/a	s		
6. Full Range of Penalties	u	s	u	a/m	n/a	s	n/a	n/a	n/a	s		
7. Advertising and Competition	a	a	a	a	n/a	a	n/a	n/a	n/a	n/a		
8. Continuing Education	a	u	u	a/m	n/a	s	n/a	n/a	n/a	s		
a=apply; u=update; m=modify; s=already in statute; n/a=not applicable												

Sunset Across-the-Board Recommendations — 1999												
	Incentive & Productivity Commission, Texas	Mental Health and Mental Retardation	Offenders with Mental Impairments, Tx. Council on	Pardons and Paroles, Board of	People with Disabilities, Committee on	Private Investigators & Private Security Agencies, Board of	Private Sector Prison Industries Oversight Authority	Public Safety, Department of	Rehabilitation Commission	Rural Health Initiatives, Center for		
General												
1. Public Membership	s	s	m	s	n/a	u	a	s	s	n/a		
2. Conflicts of Interest	a	s	m	u	m	u	m	s	u	a		
3. Nondiscriminatory Appointments	a	s	a	s	m	u	a	s	u	a		
4. Governor Designates Presiding Officer	n/a	s	a	s	s	u	s	s	s	a		
5. Grounds for Removal	a	s	u	s	m	u	a	u	u	a		
6. Standards of Conduct	a	s	a	s	a	u	a	u	s	a		
7. Training	a	a	a	s	a	a	a	a	a	a		
8. Separation of Functions	a	s	a	s	a	u	a	s	u	a		
9. Public Input	a	s	a	n/a	a	s	a	s	s	a		
10. Complaint Information	a/m	s	a	n/a	m	u	a	u	u	a		
11. Equal Employment	a	u	a	s	a	s	a	s	u	n/a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	u	n/a	n/a	n/a	n/a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	u	n/a	n/a	n/a	n/a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	u	n/a	n/a	n/a	n/a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	u	n/a	n/a	n/a	n/a		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	s	n/a	n/a	n/a	n/a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
a=apply; u=update; m=modify; s=already in statute; n/a=not applicable												

Implementation of the 1997
Sunset Legislation

Implementation of the 1997 Sunset Legislation

The Sunset Act charges the Sunset Commission with reviewing the implementation of provisions of Sunset bills from the preceding legislative session. This report section looks at the progress agencies have made in implementing changes required through the 1997 Sunset bills.

In January 1997, the Sunset Commission presented results of its review of 21 state agencies to the 75th Legislature. The Commission recommended continuing 19 of these agencies and abolishing two, with the transfer of their functions to other entities. The two transfers involved merging the Sex Offender Treatment Council into the Texas Department of Health; and moving the functions of the Texas Turnpike Authority (TTA) to an independent division of the Texas Department of Transportation. In addition, the Commission recommended creating a regional toll authority to take over TTA's projects in the Dallas-

Ft.Worth area. During the 1997 legislative session, Sunset bills containing these recommendations were debated, and all were passed and signed by the Governor.

In total, the 1997 Sunset bills required 485 separate changes to improve the efficiency and effectiveness of the state agencies under review. Sunset staff evaluated the implementation of all provisions in the Sunset bills, including changes added during the legislative process. Each agency, upon request from the Sunset staff, submitted a report detailing its efforts to implement each of these changes. In addition, input was obtained from other affected entities to verify the agency's actions to implement the required changes. Sunset staff followed up with the agencies on any incomplete or questionable items. These efforts resulted in the following status report on each agency's implementation of the Sunset legislation from the 75th session.

Agency Implementation of the 1997 Sunset Legislation

Agency	Changes Required	Complete	In Progress	Not Implemented
Texas State Board of Acupuncture Examiners (S.B. 361)	21	100%	0	0
Adjutant General's Department (S.B. 353)	12	100%	0	0
Texas Commission on Alcohol and Drug Abuse (H.B. 2119)	35	100%	0	0
Automobile Theft Prevention Authority (H.B. 1387)	5	100%	0	0
Credit Union Commission (S.B. 358)	22	100%	0	0
Criminal Justice Policy Council (H.B. 1155)	11	100%	0	0
Texas Commission on Fire Protection (S.B. 371)	32	100%	0	0
Commission on Jail Standards (S.B. 367)	9	100%	0	0
Commission on Law Enforcement Officer Standards and Education (H.B. 1856)	29	100%	0	0
National Guard Armory Board (S.B. 352) (Texas Military Facilities Commission)	12	100%	0	0
State Preservation Board (H.B. 1107)	1	100%	0	0
Texas Public Finance Authority (H.B. 1077)	13	100%	0	0
Texas Racing Commission (H.B. 1145)	48	100%	0	0
Council on Sex Offender Treatment (H.B. 2699)	18	100%	0	0
Texas Youth Commission (H.B. 2074)	5	100%	0	0
Agencies Not In Full Compliance				
Department of Information Resources (S.B. 365)	30	90%	10%	0
Texas Juvenile Probation Commission (H.B. 2073)	18	88%	12%	0
Board of Pardons and Paroles (H.B. 1386)	18	88%	12%	0
Department of Protective and Regulatory Services (S.B. 359)	87	94%	6%	0
Texas Department of Transportation and Texas Turnpike Authority (S.B. 370)*	59	88%	9%	3%
Total/Percent of Total	485	96%	4%	<1%

* The Texas Turnpike Authority's functions were transferred to the Texas Department of Transportation as part of S.B. 370, the Sunset bill on TxDOT.

Overall, 96 percent of the changes included in the 1997 Sunset legislation have been implemented. Key changes implemented include:

- Establishment by the Texas Department of Transportation of the State Infrastructure Bank, which has already loaned over \$30 million to counties and municipalities to finance improvements to roads and bridges statewide.
- Expedition by the Department of Protective and Regulatory Services (PRS) of the placement of abused children into permanent homes when return to a safe home is not an option. PRS is training its own staff, as well as judges, attorneys and child advocacy groups, about the need to resolve these cases within twelve months or less.
- Development by the Texas Department of Alcohol and Drug Abuse of the first statewide substance abuse service delivery plan. The plan, published in February 1998, will give lawmakers and other policymakers a solid framework for future

planning to met the needs of substance abuse clients, while ensuring contractor accountability for services funded through the agency.

Of the handful of 1997 Sunset changes that have not been implemented, most are being worked on for implementation in 1999. Only two changes were identified as not implemented. According to the agencies involved, these changes were not implemented either because of circumstances beyond the control of the agency. The current status of each of the provisions not fully implemented at the time of this report is detailed in the following material.

In addition to statutory changes, the Sunset Commission adopted a number of management recommendations for improvements to agencies under Sunset in 1997. By law, an agency's implementation of management recommendations adopted by the Sunset Commission is evaluated by the State Auditor, as part of the next scheduled audit of the agency, and therefore is not addressed in this report.

Ninety-six percent of the changes required by the 1997 Sunset legislation have been implemented.

Department of Information Resources S. B. 365

S.B. 365, as adopted by the 75th Legislature, continued the Department of Information Resources. The legislation included a total of 30 changes requiring action. The following chart summarizes status of three provisions that are being actively pursued but will not be fully implemented until 1999.

Bill Provision	Implementation Status
<p>Requires each state agency to have its information resources managers (IRMs) report directly to executive management and report its compliance to DIR.</p> <p>Requires DIR to report to the Legislature on the results of agencies' progress toward having IRMs as part of their executive management teams.</p>	<p>DIR surveyed state agencies to assess their compliance with this provision and will report this information to the Legislature by March 1, 1999.</p>
<p>Requires 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.</p> <p>Requires DIR to establish mandatory continuing education requirements for information resources managers, and require IRMs to report on compliance with the requirements.</p> <p>Requires 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.</p>	<p>DIR conducted the training needs survey in November 1997. Survey responses were analyzed and served as the basis for IRM focus group meetings and interviews. A study of other state, federal, and professional organizations' training programs, continuing education requirements, and certification programs was done in July 1998. DIR identified the targeted skills and abilities, and finalized guidelines, reporting instructions, and an on-line reporting system in November 1998. Agencies will be notified of program instructions in January and a pilot program will be initiated in February 1999. Final implementation of mandatory guidelines is scheduled to occur by September 1, 1999.</p>
<p>Requires DIR, by rule, to establish model guidelines for use by state agencies in developing internal quality assurance procedures.</p>	<p>DIR published its <i>Quality Assurance Review Guide for Major Information Resources Projects</i> (QA Guidelines) in November 1996. DIR sent a copy of the QA Guidelines to all state agencies with a recommendation for their use in quality assurance review of major IR projects. DIR is reviewing and adapting the QA Guidelines for internal QA purposes, to be followed by an interagency work group to refine DIR's proposed model guidelines. The model guidelines will be presented to the DIR board for consideration by August 31, 1999.</p>

Texas Juvenile Probation Commission H.B. 2073

H.B. 2073, as adopted by the 75th Legislature, continued the Texas Juvenile Probation Commission (TJPC). The legislation included a total of 18 changes requiring action. The following chart summarizes two provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
<p>Requires TJPC to adopt and enforce specific information collection and reporting standards for local juvenile probation departments.</p>	<p>TJPC reports not fully implementing this provision because of an inability to collect standardized, accurate case disposition information from local juvenile probation departments. Beginning January 1, 1999, TJPC will be requiring counties to submit complete case disposition information electronically to TJPC. TJPC will then work with the Criminal Justice Policy Council to refine and standardize what data should be continually collected and evaluated by the State. The agency plans to implement these changes into rules by the Summer of 1999.</p>
<p>Requires TJPC to develop a performance-based contracting system that will evaluate county juvenile probation department performance and holds them accountable for the services delivered. Requires local juvenile probation departments contracts with private contractors to include performance measures.</p>	<p>TJPC has not fully implemented performance-based contracting and monitoring for all contracts. Recently, TJPC has been cited in a State Auditor's Office Report (November 1998) for not formally monitoring local departments' contracts with private providers. As a result of the SAO report, TJPC established a new contract evaluation tool, to be used by agency staff, to formally evaluate local departments' monitoring activities of private contractors.</p>

Texas Board of Pardons and Paroles H.B. 1386

H.B. 1386, as adopted by the 75th Legislature, continued the Texas Board of Pardons and Paroles. The legislation included a total of 18 changes requiring action by the agency. The following chart summarizes two provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
Requires the new six-member Parole Policy Board to update parole guidelines and develop policies for their use.	The Board plans to ask the Legislature for funding for a consultant to help develop parole guidelines. If funded, the Board expects that a consultant could make recommendations within a few months. The Board applied to the National Institute of Corrections (NIC) for technical assistance for the development of parole guidelines, and a consultant prepared a report on a site assessment visit conducted April 27-30, 1998. However, NIC rejected the Board's request for assistance.
Requires the Parole Policy Board to prepare a plain language handbook for participants in the parole revocation process. Requires the handbook to be prepared and made available before June 1, 1998.	The Policy Board, on June 11, 1998, adopted a resolution to provide for a joint effort by the Board and the Parole Division of the Texas Department of Criminal Justice to publish an information manual that will include plain language material about the parole revocation process. A draft of the handbook has been prepared and is currently being translated into Spanish before it will be sent to the publisher. The Board hopes to have it ready for distribution soon.

Department of Protective and Regulatory Services
S.B. 381

S.B. 381, as adopted by the 75th Legislature, continued the Department of Protective and Regulatory Services (PRS). The Legislation include a total of 87 changes requiring action. The following chart summarizes five provisions that have not been fully implemented and provides the status of each.

Bill Provision	Implementation Status
Specifies procedure for receiving and responding to complaints including the requirement the appeal process include an opportunity for appeal of a complaint without the participation of the Department's ombudsman's office.	PRS developed and implemented statewide complaint procedures and piloted an automated tracking system in 1997. The pilot revealed a need for modifications to the automated system and PRS plans revisions to the system in 1999.
Requires PRS to provide joint training in the investigation of reports of child abuse and neglect to its personnel and law enforcement personnel, where appropriate.	PRS has developed the curriculum for joint training. The personnel (agency and law enforcement) responsible for delivering the three-day class will be trained beginning in January 1999, with classes beginning in April 1999.
Requires PRS to study issues related to providing child and adult protective services in areas bordering the United Mexican States.	PRS has developed and recently executed a memorandum of understanding with El Desarrollo, Inegral de la Familia, the Mexican state social services agency for the state of Tamaulipas. PRS is in discussion with other Mexican states bordering Texas to develop similar agreements. The Department is also studying the issues surrounding services in the border areas through the current Children Protective Services (CPS) reengineering efforts.
Requires PRS and Texas Department of Mental Health and Mental Retardation (TDMHMR) to jointly develop and implement a single system to track reports and investigations of client abuse in TDMHMR facilities.	PRS is currently making enhancements to its computer system to allow for a single system for tracking reports and investigations, with completion scheduled before the end of fiscal year 1999.
Requires PRS to enter into an agreement with a sheriff in both a large and small county (based on population) for law enforcement agencies to conduct investigations of abuse.	Written information was sent to all eligible counties inviting them to participate in the pilot and meetings with law enforcement groups were conducted. PRS was unable to find any county interested in providing the investigative functions for the pilot.

Texas Department of Transportation Texas Turnpike Authority - S.B. 370

S.B. 370, as adopted by the 75th Legislature, continued the Texas Department of Transportation (TxDOT). The legislation included a total of 59 changes requiring action.

In addition to TxDOT, the legislation abolished the Texas Turnpike Authority (TTA) and created the North Texas Tollway Authority (NTTA). The bill transferred TTA's functions to a new division in TxDOT. The legislation also required NTTA to pay the Turnpike Division an amount determined by the State Auditor's Office, plus interest, as a consideration for the transfer of state toll assets. The State Auditor determined the amount to be \$14.7 million, and to date, NTTA has made two payments totaling \$10.2 million, with a final payment due August 31, 1999. NTTA has also paid TxDOT \$1.8 million for feasibility study funds, as required by the legislation.

The following chart summarizes seven provisions relating to TxDOT that have not been fully implemented and provides the status of each. All of the provisions related to the Texas Turnpike Authority have been implemented.

Bill Provision	Implementation Status
Requires the Department to conduct a two-year pilot project to determine if outsourcing maintenance and repair of Department vehicles is cost-effective. Any savings from the pilot must be deposited to the State Infrastructure Bank.	The Department is currently evaluating proposals for the pilot project.
Requires the Department to conduct a comprehensive analysis of the multimodal use of the state highway system. In addition, requires the Department to work with other state agencies, political subdivisions, and the general public to improve the state highway system to include all modes of transportation.	The Department is implementing this provision in several phases that will continue as on-going studies. Surveying and analysis is being conducted in scenic by-ways, state-wide travel demand modeling, origin and destination research focusing on commuter rail, and various corridor studies.
Authorizes the Department to issue licenses or permits, or receive the application for licenses and permits, electronically. Specifies that the Department, through rule, may authorize an applicant for a permit to move heavy equipment to submit that application electronically.	While the TxDOT Information Systems Division has met with the Department of Information Resources to review this provision, no specific plan or timeframe is in place for providing these services electronically.
Authorizes the Commission to implement a floral mosaic living logo pilot program and specifies rules to be adopted by the Commission regulating the program. Specifies that the pilot program is limited to counties with a population of 500,000 or greater.	<i>This provision has not been implemented.</i> The Federal Highway Administration stated that the living logos program would not be permissible on the National Highway System in Texas.

Texas Department of Transportation
Texas Turnpike Authority - S.B. 370

Bill Provision	Implementation Status
<p>Authorizes the Department to establish an electronic bidding system for highway and maintenance contracts. Allows a qualified vendor to submit an electronic bid, changes the requirement to open bids at a public hearing to only being publicly posted within 48 hours after bids are opened, and authorizes the Department to charge a fee for manually processed bids once the electronic system is established.</p>	<p>Currently, the Department is part of a team establishing security measures for the electronic bidding system. The Department anticipates the Texas Transportation Commission will adopt rules for an electronic bidding system in June 1999.</p>
<p>Requires the Department to issue specialty license plates that include the name and insignia of a professional sports team located in this state. Plates may only be issued for teams that can certify that at least 5,000 persons will apply for the plates and that play their home games in a facility constructed or operated with public funds.</p>	<p><i>This provision has not been implemented.</i> Rules specify that the Department issue license plates providing that the sports teams give TxDOT authorization to use the team's insignia without payment to the teams or major league properties organizations. Because teams have not agreed to allow the Department to use a team insignia without payment, no specialty license plates for professional sports teams have been issued.</p>
<p>Requires the Department to conduct a sound wall barrier study to determine the practicality of implementing a statewide noise abatement program. Requires the Department, within ten days of releasing the sound wall study, to notify each member of the Legislature who represents a county covered by the report or study. Additionally, upon request by a member, the Department shall provide a copy of the report or study.</p>	<p>The Department is evaluating the implementation of a statewide noise abatement program. A report of this evaluation will be provided to the 76th Legislature.</p>

Appendices

Appendix 1
History of Sunset Commission Action - 1979 to 1999

History of Sunset Commission Action - 1979 to 1999												
	1979	1981	1983	1985	1987	1989	1991	1993	1995	1997	1999*	Total Percent of all Agencies Reviewed
Legislative Session	66th	67th	68th	69th	70th	71st	72nd	73rd	74th	75th	76th	
Agencies Reviewed	26	28	32	31	20	30	30	30	18	21	25	291
Agencies Continued	12	22	29	24	18	25	22	19	17	19	23	230 (79%)
Agencies Abolished Outright	8	2	3	6	2	3	3	0	0	0	1	28 (10%)
Agencies Abolished & Functions Transferred	1	3	0	0	0	2	3	1	1	0	0	11 (4%)
Agencies Combined	4	1	0	0	0	0	2	10	0	2	1	20 (7%)
Agencies Separated	1	0	0	1	0	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 1

Appendix 2

Sunset Review Schedule - 2001

General Government	<p>Aircraft Pooling Board</p> <p>Emancipation Juneteenth Cultural and Historical Commission, Texas</p> <p>Ethics Commission, Texas</p> <p>Fire Fighters' Pension Commissioner, Office of Pension Review Board, State</p> <p>Secretary of State, Office of</p>
Judiciary	<p>Judicial Conduct, State Commission on</p> <p>Judicial Council, Texas</p> <p>Law Library, State</p> <p>Prosecuting Attorney, Office of the State</p>
Natural Resources	<p>Coastal Coordination Council</p> <p>Energy Coordination Council, Texas</p> <p>Low-Level Radioactive Waste Disposal Authority</p> <p>Natural Resource Conservation Commission, Texas</p> <p>Parks and Wildlife Department, Texas</p> <p>Railroad Commission of Texas</p> <p>Soil and Water Conservation Board, State</p> <p>Texas-Israel Exchange Fund Board</p> <p>Water Development Board, Texas</p>
Business and Economic Development	<p>Corpus Christi Regional Transit Authority</p> <p>Economic Development, Texas Department of</p> <p>Harris County Metropolitan Rapid Transit Authority</p> <p>Homeless, Texas Interagency Council for the</p> <p>Housing and Community Affairs, Texas Department of</p> <p>Housing Corporation, Texas</p>
Regulatory	<p>Banking Commissioner, Office of</p> <p>Consumer Credit Commissioner, Office of</p> <p>Finance Commission of Texas</p> <p>Public Utility Commission</p> <p>Public Utility Counsel, Office of</p> <p>Savings and Loan Commissioner, Office of</p> <p>Securities Board, State</p>

Appendix 2

Appendix 3

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.

Appendix 3

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.

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 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.