

Self-Evaluation Report



Texas State Board of Barber Examiners

September 2003

TABLE OF CONTENTS

I.	Key Functions, Powers, and Duties	1
II.	History and Major Events	9
III.	Policymaking Structure.....	15
IV.	Funding	20
V.	Organization.....	29
VI.	Guide to Agency Programs.....	33
VII.	Agency Performance Evaluation	51
VIII.	78th Legislative Session Chart	60
IX.	Policy Issues	61
X.	Comments	68

Texas State Board of Barber Examiners (TSBBE) Self-Evaluation Report

I. Key Functions, Powers, and Duties

A. Provide an overview of the agency's mission, key functions, powers, and duties. Specify which duties are statutory.

The mission of the TSBBE is to ensure Texans receive the highest quality customer service from the Board's licensees in a safe and clean environment. To this end, the TSBBE performs the following key functions:

- *1. regulates 29 barber schools/colleges that instruct prospective barbers, barber technicians, manicurists, and barber teachers in the TSBBE's prescribed curricula
- *2. maintains a history (enrollment, withdrawal, re-enrollment, transfer, hours completed) of every student and student teacher who has ever attended and currently attends one of the 29 barber schools/colleges
- *3. administers practical and written examinations for barbers, barber technicians, manicurists, and barber teachers who have completed successfully the prescribed curricula
- *4. issues initial licenses and permits for barbers, manicurists, barber technicians, and barber teachers who complete successfully the practical and written examinations
- *5. issues permits for barber shops, manicurist shops, booth rentals in barber shops (barber chairs rented by barbers from the owners/operators of the barber shops), dual shops (locations where barbers, barber technicians, and cosmetologists practice simultaneously) and barber schools/colleges
- *6. routinely inspects all licensees and permitted facilities for compliance with the Texas barber law and the rules of the TSBBE
- *7. investigates all jurisdictional complaints against licensees and permitted facilities.
- *8. levies fines and penalties against licensees and permit holders who violate the barber law and the TSBBE's rules as provided in the Texas Occupations Code Chapter 1601 Subchapter O. Administrative Penalties
- *9. renews licenses and permits through the routine paper procedures and through the internet (*TexasOnline*)
- *10. promulgates rules and regulations
- *11. interacts with the public and the profession on matters of law and rules
- *12. provides a statewide toll-free number
- *13. issues Texas barber licenses through reciprocity with other states
- 14. issues certification of Texas license to other states for Texas licensees seeking licensure in other states
- *15. provides information to the public and the profession via the TSBBE's web site
- 16. via the TSBBE's web site, allow individuals to search for barber students, licensees, shops, and if there is a violation by a licensee

*17. provide enforcement assistance gratis to the Texas Cosmetology Commission; pursuant to the General Appropriations Act, 78th Texas Legislature, Regular Session, Article VIII-10, Rider 1 (statewide crossover inspection and enforcement program), the TSBBE routinely inspects all dual shops (licensees and facilities) for compliance with the Texas Occupations Code Chapter 1602. Cosmetologists at no cost to the TxCC. The TSBBE also levies fines and penalties against licensees on behalf of the TxCC.

*Statutory

B. Does the agency's enabling law correctly reflect the agency's mission, key functions, powers, and duties?

Yes.

C. Please explain why these functions are needed. Are any of these functions required by federal law?

These functions are needed for the reasons set forth below.

1. To assure a minimum level of education and skill of practitioners through a 1,500 curriculum, set by the Barber Board, in the following:

basic human science

sanitation

sterilization

proper use of tools (e.g., electric clippers, manual clippers, razors) and chemicals

skills in specialized services (e.g., mens' haircuts, hairstyling, tapering, shingling, trimming long eyebrows, clipper cutting, shaving neck and face)

2. To assure fundamental competency of practitioners through examinations to demonstrate proficiency in prescribed subjects and skills by passing written and practical examinations.

3. To assure a high-quality profession through initial and renewal of licenses of practitioners (barbers, manicurists, barber technicians, barber teachers) and concomitantly identify unskilled and unlicensed practioners.

4. Through routine, impromptu, ad hoc, and follow-up inspections of barbers schools, barbershops, dual-licensed barber/cosmetology shops, and individual licensees employed in such facilities, ensure the following:

protection of the public health through --

acceptable sanitary conditions (e.g., hot and cold running water, adequate light and ventilation, wet and dry sterilization equipment, storage cabinets for clean linens, clean floors, toilet facilities)

proper disinfecting of shop equipment to minimize the potential risk of bloodborne pathogen transmission from practitioners to patron and patron to patron

minimized potential for spreading head lice through unsanitary practices

minimized spread of skin (fungal infections of nails) and scalp infections (scabies, impetigo, ringworm, dandruff, staph infection through cross-contamination of clippers)

proper skill levels of practitioners by issuing fines/penalties for violating the Texas Occupations Code, Chapter 1601, Barbers and rules of the Barber Board.

D. In general, how do other states carry out similar functions?

Set forth below are the titles of the various state agencies that regulate the barber profession. The titles of the agencies are indicative of the administrative structure of how the states carry out the functions performed by the TSBBE.

- Alabama: no Barber law; no Board
- Alaska State Board of Barbers and Hairdressers
- Arizona Board of Barbers
- Arkansas State Board of Barber Examiners
- California Bureau of Barbering and Cosmetologists
- Colorado Board of Barbers and Cosmetologists
- Connecticut Examining Board for Barbers and Cosmeticians
- Delaware Board of Cosmetology and Barbering
- District of Columbia Board of Barber Examiners
- Florida Barbers' Board
- The Georgia Barber Board
- Hawaii Board of Barbering and Cosmetology
- Idaho Board of Barber Examiners
- Illinois Barber, Cosmetology, Esthetics, and Nail Technology
- Indiana State Board of Barber Examiners
- Iowa Board of Barber Examiners
- Kansas Board of Barbering

Self-Evaluation Report

Kentucky Board of Barbering
Louisiana State Board of Barber Examiners
Maine State Board of Barbering and Cosmetology
Maryland State Board of Barbers
Massachusetts Division of Registration - Barber Board
Michigan Board of Barber Examiners
Minnesota Board of Barber Examiners
Mississippi State Board of Barber Examiners
Missouri State Board of Barber Examiners
Montana Board of Barbers
Nebraska Board of Barber Examiners
Nevada State Barbers Health and Sanitation Board
New Hampshire Board of Barbering and Cosmetology and Esthetic
New Jersey Board of Cosmetology and Hairstyling
New Mexico Board of Barber and Cosmetologists
New York State Barber Board - Department of State
North Carolina State Board of Barber Examiners
North Dakota State Board of Barber Examiners
Ohio State Barber Board
Oklahoma State Barber Board
Oregon Board of Barbers and Cosmetology
Pennsylvania State Board of Barber Examiners
Rhode Island Board of Examiners in Barbering
South Carolina State Board of Barber Examiners
South Dakota Board of Barber Examiners
Tennessee State Board of Barber Examiners
Utah Cosmetology/Barber Board
Vermont Board of Barbers and Cosmetologist
Virginia Board for Barbers
Washington Cosmetology, Manicurist, Barber and Esthetician Advisory Board
Wisconsin Barber and Cosmetology Board
Wyoming State Board of Barber Examiners

E. Describe any major agency functions that are outsourced.

Pursuant to the Texas Occupations Code, Chapter 1601, §262 (b)(2), the TSBBE's written examination is purchased from a national testing service, Professional Testing Corporation (New York).

The TSBBE's e-mail and web page are provided through a contract with PrismNet (Austin)

The TSBBE's database (examination, license, enforcement, student) is housed at Northrop Grumman pursuant to its contract with the Department of Information Resources.

An Assistant Attorney General, assigned by the Office of the Attorney General, represents the TSBBE.

The TSBBE utilizes the Texas Building and Procurement Commission for mail services, long-distance services, purchasing, building/grounds maintenance

Risk assessment is provided by the State Office of Risk Management

The TSBBE's internal audit occurred through a collaborative effort between the Small State Agency Task Force, the University of Texas at Austin's College of Business, and the State Agency Internal Audit Forum

The TSBBE utilizes the Comptroller of Public Accounts for accounting, property, payroll, and treasury functions.

F. Discuss anticipated changes in federal law and outstanding court cases as they impact the agency's key functions.

None

G. Please fill in the following chart, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact the agency. Do not include general state statutes that apply to all agencies, such as the Public Information (Open Records) Act, the Open Meetings Act, or the Administrative Procedure and Texas Register Act. Provide the same information for Attorney General opinions from FY 1999 - 2003, or earlier significant Attorney General opinions, that affect the agency's operations.

(Texas State Board of Barber Examiners) Exhibit 1: Statutes/Attorney General Opinions	
Statutes	
Citation/Title	Authority/Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
SB645 (77th Texas Legislature, R.S.)	Established a common Internet occupational licensing system through TexasOnline [23 occupational licensing agencies (including the TSBBE) required to participate]
SB187 (77th Texas Legislature, R.S.)	Provided that a subscription fee be charged to pay the costs of developing and maintaining this common system. AS directed by the TexasOnline Authority, the TSBBE assessed barber renewals a \$6 subscription fee and manicurist renewals a \$3 subscription fee

Self-Evaluation Report

<p>SB1152 (78th Texas Legislature, R.S.)</p>	<p>Provided that the initial license for an occupation and facility shall be available through TexasOnline. The TSBBE anticipates that the TexasOnline Authority will require that the initial license for a barber, booth rental, and barbershop shall be available through TexasOnline. The TSBBE also anticipates the TexasOnline Authority will direct the TSBBE to assess a subscription fee (to be determined by the TexasOnline Authority) on each license.</p>
<p>SB660 (78th Texas Legislature, R.S.)</p>	<p>Provided that occupational licensing agencies may do a criminal background check on applicants for a barber license. A fee for the background check would be charged to the applicant and passed on to the Texas Department of Public Safety.</p>
<p>SB287 (78th Texas Legislature, R.S.)</p>	<p>Provided that agencies with an even number of board members shall have an odd number; TSBBE will have an additional public member appointed by the Governor.</p>

Attorney General Opinions	
Attorney General Opinion No.	Impact on Agency
OR 2001-2272 (June 1, 2001)	<p>Provided that complaint information, including the name of a complainant, must be disclosed under the Public Information Act. The TSBBE changed its complaint policy to warn complainants that their names are not confidential, and that the TSBBE will accept anonymous complaints.</p> <p>The TSBBE complaint policy now reads, <i>The Board considers any complaint (written or verbal, anonymous or non-anonymous) as valid. A Board inspector investigates any jurisdictional complaint. Any non-jurisdictional complaint is forwarded to the appropriate regulatory agency. If the complaint is non-anonymous, any request for the identify of the complainant shall be forwarded to the Office of the Attorney General who will determine what information regarding the complainant shall be released. Staff of the Texas State Board of Barber Examiners may not identify the complainant.</i></p>
GA-0092 (August 20, 2003)	<p>Provided that claims for unused tuition from a barber school that ceases operation may be paid from the barber school tuition protectin account regardless of the source of the unused tuition. The Board of Barber Examiners administers claims against the account. The account is created as a trust fund with the Comptroller of Public Accounts, who is responsible for disbursements by warrant or electronic funds transfer from the fund. Because the account is a trust fund, the strictures of Article VIII, Section 6, of the Texas Constitution do not apply to it.</p> <p>However, during the 78th Texas Legislature, the House Appropriations Committee directed the Comptroller of Public Accounts to not expend funds from the Tuition Protection Account.</p>

H. Please fill in the following chart:

(Texas State Board of Barber Examiners) Exhibit 2: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Douglas A. Beran, Ph.D.	5717 Balcones Drive; Suite 217; Austin, Texas 78731	458-0111 1-888-870-8755 Fax 458-4901	douglas.beran@ tsbbe.state.tx.us
Agency's Sunset Liaison	Same as Agency Head			

II. History and Major Events

Provide a time line discussion of the agency's history, briefly describing the key events in the development of the agency, including:

- the date the agency was established;
- the original purpose and responsibilities of the agency;
- major changes in responsibilities or statutory authority;
- agency/policymaking body name and composition changes;
- the impact of state/federal legislation, mandates, and funding;
- the impact of significant state/federal litigation that specifically affects the agency's operations; and
- key organizational events, and areas of change and impact on the agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

See **History and Major Events Examples** or [click here to link directly to the examples](#).

Date the Agency was Established
Original Purpose and Responsibilities of the Agency
Major Changes in Responsibilities or Statutory Authority

1907: First TSBBE created by legislation later declared unconstitutional primarily because of discriminatory language that exempted certain persons from regulation.

1921: A law (essentially a registration law) enacted that required persons owning, operating, or managing barber shops or beauty parlors to register with the Texas State Board of Health; first statutory distinction between barbershops and beauty parlors; set out basic requirements for sanitation and sterilization; did not provide for enforcement.

1929: 41st Texas Legislature, 1st, 2d, and 5th Called Sessions.

Created TSBBE -- three barbers appointed by Governor to serve three-year terms with the following tasks:

- (1) elect a president and hire a secretary and other employees as necessary to staff an Austin office
- (2) adopt rules and regulations, a common seal to certify its orders, certificates, and records
- (3) deposit all monies received in the State Treasury for credit to the "State Board of Barber Examiners Fund" appropriated for the purposes of the Act
- (4) submit an annual report to the Governor.

Required 1,000 hours of instruction for new barbers, set application fees for examinations, and required examinations at least four times a year.

Established requirements and fees for licensing barbers and assistant barbers

Required registration of barbershop and issuance of permits to barber schools (did not specify licensing fees for shops and schools)

Made certain offenses a misdemeanor and authorized fines ranging from \$25 to \$200

Self-Evaluation Report

Empowered the State Board of Health to establish sanitary rules and regulations for the conduct of barber shops and barber schools

Authorized the inspection of barbershops and barber schools to monitor compliance with rules

Basic enforcement power was the refusal to renew or issue a license and suspend or revoke for cause a license.

1951: the term of Board members was increased from three to six year.

1961: Board authorized to examine and license barber school teachers.

1967: Board authorized to collect fees and renewal fees for shop permits.

1975: [1] the number of Board members was increased from three to six (two licensed barbershop owners, two licensed barbers who did not own shops, two licensed owners of barber schools)
[2] Board authorized to regulate, examine, license manicurists, wig specialists, wig instructors, and to issue permits for the operation of wig salons and wig schools;
[3] Board's rule-making and enforcement authority broadened by providing that, subject only to the Board of Health's authority to make sanitary rules and regulations, the Board shall have full authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for all persons licensed or practicing under the Barber Act, to regulate the practice and teaching of barbering in all of its particulars, and to insure strict compliance with and enforcement of the Barber Act.

1979: after Sunset review, Board membership modified by substituting two public members in lieu of one shop owner and one school owner.

1983: a rider to the appropriations bill mandated that an interagency contract be signed by the Board of Barber Examiners and the Texas Cosmetology Commission for a statewide crossover inspection and enforcement program; (dual shops); this rider has appeared in each subsequent appropriations bill.

1985 (March): the Agency began inspecting all dual-licensed shops east of Interstate Highway 35; since October 1985, the Agency began inspecting all dual shops in the state.

1987: HB175 required the Agency to verify payment of corporate franchise taxes prior to issuance of a business permit.

1989: SB245 changed the number of days allowed for deposit of money in the Treasury from 7 days to 3 business days after receipt of the money

HB460 made numerous changes to the Barber Law:

- [1] penalties may be assessed for all expired licenses or shop permit (i.e., penalty for late renewals)
- [2] wig specialists and manicurists may operate specialty shops without licensed barber as managers
- [3] barber schools must teach theory classes four or five days each week [theory may be taught one hour per day for five days or one hour/fifteen minutes per day for four days
- [4] photos on licenses
- [5] neck strip required
- [6] doctors and nurses are exempt from the Barber law while operating within the scope of their licenses
- [7] schools required to offer 300 hours of instruction in theory if they offer a refresher course
- [8] barber school enrollment age lowered to 16
- [9] barber schools allowed to enroll one student teacher for each licensed teacher at the school; student teachers may not be booked with customers

[10] references to assistant barber deleted

[11] allows licensed barbers who meet the requirements to take the examination for a teacher's certificate; each barber must have been licensed at least five years and provide proof that the last two years were as a working barber

[12] provides for specialty licenses and specialty shop permits for manicurists; sets expiration dates for these licenses and permits

[13] provides a student enrollment fee (\$25) for processing applications

[14] school failing approval of their first inspection by the Board subject to a \$500 re-inspection fee

[15] current manicurist licensees may perform pedicures but new manicurist licensees must have 300 course hours of training (eff. 09/01/89)

[16] current barber technician licensees may provide facials but new barber technician licensees must have 300 course hours of training (eff. 09/01/89)

1991: SB430 provided that --

[1] an applicant for a barber school or college shall furnish a \$10,000 surety bond

[2] the Board shall determine that an applicant for a barber school or college permit is financially sound

[3] each barber school must furnish to the Board for its approval copies of (1) refund policy and (2) course length and subject matter for training barber technicians, manicurists, wig specialists, and wig instructors

[4] booth rental permits required

1991: holders of professional/occupational licenses in Texas identified as student loan defaulters on loans guaranteed by the Texas Guaranteed Student Loan Corporation are not eligible for licensed renewal until they have entered into a repayment agreement with the Corporation and have not defaulted on such agreement.

1999: Recodification of the Civil Statutes of Texas, Title 132, Chapter One, Barbers, Article 8402 - Article 8407a, into Texas Occupations Code, Chapter 1601, Barbers, with the following changes:

[1] complaints no longer filed with a local Justice of the Peace;

[2] contested cases to be heard at the State Office of Administrative Hearings;

[3] each day a violation continues or occurs is a separate violation for purposes of imposing a penalty;

[4] the amount of the fine ranges from a written warning to a maximum of \$1,000;

[5] Office of the Attorney General authorized to sue to collect fines

[6] initial barber and manicurist examination fee changed from \$10 to \$35;

[7] non-barbers may not own a barbershop

2001: SB660 made the following changes to the Texas Occupations Code, Chapter 1601, Barbers:

[1] provide for a Barber School Tuition Account such that the TSBBE must collect \$25,000 from barber schools/colleges holding permits after September 1, 2001, and prior to January 1, 2002, to fund the Account and deposit these funds with the Comptroller of Public Accounts even though the 77th Legislature did not authorize an appropriation rider to the TSBBE to expend these funds for student claims.

[2] delete surety bond

[3] provide for a new manicurist license training course consisting of 600 rather than 300 hours in not less than 16 weeks rather than 8 weeks for students enrolling in training on or after 09/01/01

[4] delete instructional programs and licenses wig instructor and wig specialist

[5] delete manicurist specialty shop and wig specialty shop

[6] issue a barbershop permit to an applicant if the applicant has practiced barbering for at least 12 months

- [7] provide that the TSBBE shall adopt reasonable rules on sanitation rather than the Texas Department of Health
- [8] provide that the TSBBE, without oversight by the Texas Department of Health, may adopt and enforce all rules necessary for the performance of the TSBBE's duties.
- [9] delete journeyman barber permit
- [10] set \$50 as the maximum fee for barber examination and barber technician examination
- [11] provide for barber license or certificate through reciprocity with other states
- [12] provide that the TSBBE may enter and inspect a shop at any time during business hours without oversight by the Texas Department of Health
- [13] delete manicuring as a required course in barber schools/colleges
- [14] delete criminal penalty for violation of the Barber Law.
- [15] add Subchapter O, Administrative Penalties

Agency/Policy-making Body Name and Composition Changes

1929: TSBBE created (three barbers appointed by Governor to serve three-year terms)

1951: term of TSBBE members increased from three to six years.

1975: number of TSBBE members increased from three to six (two licensed barbershop owners, two licensed barbers who did not own shops, two licensed owners of barber schools)

1979: TSBBE membership modified by substituting two public members in lieu of one shop owner and one school owner.

2003: third public member added to TSBBE membership

Impact of State Funding

The TSBBE's operations are very cost efficient. For example, in Fiscal Year 2003 (FY03), the TSBBE collected \$1,060,657 in revenue (\$46,217 in administrative fines and penalties). This revenue was \$190,657 more than it expended for direct (\$620,000) and indirect (\$250,000) costs.

These efficiencies were achieved through expenditures for salaries and travel that are below the state averages and guidelines.

Salaries

- most of the TSBBE's employees are paid below midpoint of state salary ranges
[Workforce Summary Document/State Classification Office (January 2003)]
- the average salary is below the Article VIII average and statewide average
[Workforce Summary Document/State Classification Office (January 2003)]
- the TSBBE was unable to fill the vacant inspector position for the Austin region because of budget constraints; this vacant inspector position was the FTE deleted by the 78th Legislature.

Travel reimbursements for inspectors are below state guidelines

- \$12.50 maximum for an inspector who travels out of headquarters and returns in the same day
(the state allows \$25.00)
- \$15.00 maximum for departure days and \$15.00 for return days on overnight and extended inspection trips
(the state allows \$30.00)
- \$25.00 maximum for full days away from headquarters on extended inspection trips
(the state allows \$30.00)
- original, detailed meal receipts from vendors (restaurants, cafeterias)
(not required by state)

For FY04 - FY05, the TSBBE has approximately \$560,000 for operations. Of that amount, approximately \$16,000 is budgeted for the State Office of Risk Management, \$8,000 for longevity pay, and \$6,000 for benefit replacement pay. The net effect is the TSBBE actually has approximately \$530,000 for operations during the next two years, an amount significantly less than in prior FYs.

Consequently, the TSBBE's will be challenged to be even more cost efficient because it will not be able to reduce expenditures concomitant with a lesser amount for operations. For example, the TSBBE anticipates the following expenditures in FY04:

- Salaries and Related (\$395,000)
- Northrop Grumman (\$45,000) pursuant to Grumman's contract with the Department of Information Resources for licensing/data base services
- Postage (\$15,000)
- Professional Testing Service (\$12,000) to provide and score the TSBBE's English and Spanish written examinations as prescribed by the Barber Law (Texas Occupations Code §1601.262)

The only expenditure item in which the TSBBE has some discretion is travel; however, to reduce travel expenditures, the TSBBE would have to either (1) reduce the frequency of Board meeting and examinations in Austin and/or (2) reduce the inspections across the state.

As for (1), TSBBE meetings occur quarterly (more frequently if necessary) and follow the examinations that occur monthly. The TSBBE conducts its practical examinations only in Austin. Every month, each student who has completed the course of instruction at the 29 Texas barber schools comes to Austin to undertake the practical examination (shaving, haircutting, manicuring) and the written examination. Each examinee pays his/her own travel costs and the travel costs of his/her own human model for shaving/hair cutting or manicuring. The TSBBE pays the travel costs for four examiners (Board members) and one or two inspectors to assist the TSBBE members. Reducing travel costs by scheduling examinations less frequently would impact directly and negatively the TSBBE's services by delaying students' examinations and their subsequent entrance into a wage-earning profession.

As for (2), if the inspectors' travel were reduced, the public health would be jeopardized because there would be fewer inspections. Moreover, there would be a negative impact on General Revenue because the TSBBE's fines/penalties deposited into General Revenue would be reduced, viz., the more frequent the inspections, the more frequently violators are discovered and violations are written.. In FY03, the TSBBE deposited \$46,217 into General Revenue for administrative fines and penalties. There would be a similar reduction in fines/penalties collected by the TxCC that are deposited into General Revenue because the TSBBE's inspectors would be inspecting fewer dual shops and writing fines against individuals who violate the Texas Occupations Code, Chapter 1602, Cosmetology. In FY03, the TSBBE inspectors wrote \$67,050 in administrative fines and penalties for TxCC. The amount collected by TxCC is contingent upon that Agency's follow-up administrative actions. Finally, if the TSBBE inspectors' travel were reduced, a negative impact (conceivably, a \$500,000 reduction in General Revenue) could be that licensees would not have as much of an incentive to obtain initial licenses and permits and to renew those licenses and permits because of the reduced chance they would be identified by the TSBBE's inspectors as violating the Barber Law.

**Key Organizational Events, and Areas of Change
and Impact on the Agency's Organization**

In 1994, the TSBBE moved from the Continental Building (9101 Burnet Road, Austin) to the William Hobby Building. Pursuant to the General Appropriations Act (2002 - 2003), in December 2001, the TSBBE moved its administrative offices from the William Hobby Building to the Frank Joseph Cosmetology Building (FJCB). At the Hobby Building, the TSBBE occupied 2,154 sq. ft. At the FJCB, the TSBBE occupies 1,185 sq. ft., a reduction of 969 sq. ft. (a 45% loss of its administrative offices' square footage). A capital improvement need is to provide additional square footage for the administrative offices.

Moreover, the FJCB's examination rooms are not equivalent to the facilities typically found in barber schools and barbershops. As a result, the students' examination experiences do not equate to their actual professional performance while they are in training in the barber schools and what they will encounter when they enter the profession. For example, there is no electricity, lights, nor mirrors at the shampoo bowls (15 per examination room). If there were, the TSBBE could conduct 30 practical examinations while other examinees took the written exam. At each examination (once each month/12 months per year), the examinees total 70 - 120 and they rotate between the written and practical examinations. The cost for this capital improvement would be \$9,528 for one examination room and \$16,144 for two examination rooms (December 2001).

In FY01, the TSBBE paid \$30,089 from its indirect costs to service the bond debt for 2,154 sq. ft. at the Hobby Building. In FY02, the TSBBE's bond debt service payment was \$30,637 even though [1] it occupied the Hobby Building for four months [September - December 14, 2001] and [2] its square footage was reduced by 969 sq. ft. For FY03, the Texas Building and Procurement Commission has not budgeted a bond debt service payment for the Funeral Services Commission. Instead, the TSBBE has been assessed the full amount for the vacated square footage at the Hobby Building (rather than the reduced amount for the square footage at the FJCB); concomitantly, the TxCC's bond debt service has been reduced by an amount somewhat equivalent to the amount the TSBBE paid at the Hobby Building. The result is the TxCC's bond debt service payment for FY03 is \$156,406, a reduction of \$28,768.

For 1,185 sq. ft., the TSBBE's bond debt service payment should be approximately \$16,554 (\$13.97 x 1,185 sq. ft.). The difference (\$14,083) between the TSBBE's bond debt service payment to the TBPC for the square footage at the Hobby Building (FY02) and the TSBBE's bond debt service payment for the square footage at the FJCB (\$16,554) should be available to either reduce General Revenue expenditures or for capital improvements at the FJCB. Similarly, perhaps the TxCC's bond debt service payment to the TBPC should be reduced by only \$16,554 (rather than \$28,768) for the bond debt service for the square footage now occupied by the TSBBE. This argument assumes the Funeral Services Commission should pay the bond debt service for the square footage at the Hobby Building it now occupies in lieu of the TSBBE. The fundamental question is "should the TSBBE continue to pay approximately \$14,083 for square footage at the FJCB it does not occupy when those funds could be used, instead, to reduce the TSBBE's indirect costs and, perhaps, remodel the examination rooms at the FJCB and the TSBBE's administrative offices?"

III. Policymaking Structure

A. Please complete the following chart:

(Texas State Board of Barber Examiners) Exhibit 3: Policymaking Body					
Member Name	Term/ Appointment Dates/ Appointed by ___ (e.g., Governor, Lt. Governor, Speaker)	Qualification (e.g., public member, industry representative)	Address	Telephone & Fax Numbers	E-mail Address
William H. Kuykendall, J.D. Chair	Term: 05/31/96 - 01/31/05 Appointed by Gov. Bush (05/31/96) Appointed Chair by Gov. Perry (07/30/02)	Public Member	106 E. 6th Street, Suite 900 Austin, TX 78701	(512) 322- 3992 FAX: (512) 323-2958	Wkklaw@ austin.rr.co m
Wayne Moore, Vice Chair	Term: 07/08/97 - 01/31/03 Appointed by Gov. Bush	Barber representing a large county	917 Meadowgate Garland, TX 75040	(972) 231- 6254 FAX: (972) 23402659	Twomoore barbers@a ol.com
Ronald Brown	Term: 08/06/02 - 01/31/07 Appointed by Gov. Perry 08/02/02	Barber School Owner	Roffler School Of Hair 5339 Burnet Road Austin, TX 78756	(512) 458 -2620 FAX: (512) 451-4152	Rofflersch oolofhair@ msn.com
Janis Wiggins	Term: 04/24/95 - 01/31/03 Appointed by Gov. Bush	Barber Representing A small county	3655 Lepad Trail Kingsland TX 78639	(512) 793 -2735 FAX: (512) 793-2505	Jwiggins@ Tstar.net
Juana C. "Janie" Garza	Term: 09/21/01 - 01/31/07 Appointed by Gov. Perry	Barber who is a Barbershop owner	639 S. Kansas Mercedes TX 78570	(956) 969 - 0341 FAX: (956) 973 - 2367	Abcbarber @acnet.net
Taren E. Hollister	Term: 08/03/01 - 01/31/05 Appointed by Gov. Perry	Public Member	13906 Rosebrand Court Houston TX 77059	(713) 844 - 1303 FAX: (713) 844 - 1309	t.hollister @heathus. Com

B. How is the chair of the policymaking body appointed?

By the Governor

C. Describe the primary role and responsibilities of the policymaking body.

Appoint the Executive Director

Formulate policy objectives for the TSBBE

Oversee and manage the Executive Director's compliance with these policy objectives and administration of the TSBBE

Approve the TSBBE's Strategic Plans, Legislative Appropriations Requests, Operating Budgets, and Legislative Packages

Prescribe the curricula in barber schools for barbers, barber technicians, manicurists, and barber teachers

Prescribe the method and content of the written and practical examinations for barbers, barber technicians, manicurists, and barber teachers

Conduct monthly practical and written examinations in Austin

Conduct periodic barber examinations at the Federal Prison in Three Rivers

Ratify "Final Orders" for "Agreed Orders for Administrative Penalties Against Certain Licensees in Cases Brought for Informal Hearings before the Executive Director"

Ratify "Final Orders" for "Proposals for Decision from the State Office of Administrative Hearings"

Propose and adopt rules

Consider public and industry input at every TSBBE meeting

Inspect new barber schools for approval

D. List any special circumstances or unique features about the policymaking body or its responsibilities.

Board members themselves conduct the written and practical examinations.

E. In general, how often does the policymaking body meet? How many times did it meet in FY 2002? in FY 2003?

The Board meets at least six times a year (every other month).

In FY02, the TSBBE met on the following months:

October 2001
November 2001
December 2001
February 2002
April 2002
June 2002
July 2002
August 2002

In FY03, the TSBBE met on the following months:

September 2002
November 2002
January 2003
March 2003
May 2003
July 2003

F. What type of training do the agency's policymaking body members receive?

Newly appointed members of the TSBBE receiving training at the TSBBE office from the Assistant Attorney General assigned to the TSBBE. The training consists of a review of the Public Information Act, the Open Meetings, Act, the litigation process, and the Assistant Attorney General's role as Counsel for the Board.

The TSBBE's Executive Director advises newly appointed members of the TSBBE's history and past and current issues affecting the TSBBE and the barber industry.

Newly appointed members attend training provided by the Office of the Governor

New and existing members of the TSBBE have the opportunity to attend the Government Law and Liability Conference held by the Office of the Attorney General (if travel funds are available)

G. Does the agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, please describe these policies.

The Texas Occupations Code §1601.103 Division of Responsibilities provides that "The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board."

Accordingly, the TSBBE's personnel manual states the following: "**Executive Director's Authority:** In accordance with the Texas Commission on Human Rights Act and the Board procedural rules as chief officer, the Executive Director has the exclusive authority to implement the policies and procedures set forth in the personnel manual."

H. If the policymaking body uses subcommittees or advisory committees to carry out its duties, please fill in the following chart. See Exhibit 4 Example or [click here to link directly to the example](#).

(Agency Name) Exhibit 4: Subcommittees and Advisory Committees			
Name of Subcommittee or Advisory Committee	Size/Composition/How are members appointed?	Purpose/Duties	Legal Basis for Committee
The TSBBE does not use any subcommittees or advisory committees			

I. How does the policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of the agency?

The TSBBE obtains public input through the following:

[1] a "Public Comment" agenda item that appears on every agenda of every TSBBE meeting held in accordance with Chapter 551 of the Government Code (Open Meetings); the TSBBE posts the agenda with the Secretary of State and on its own web site (www.tsbbe.state.tx.us); the TSBBE also sends the agenda to an extensive list of individuals.

[2] the rulemaking process

[3] complaint resolution process

[4] legislative package development (in preparation for the 78th Texas Legislature, the TSBBE solicited public input on its proposed legislative package at six different TSBBE meetings)

[5] customer-satisfaction surveys, and staff interaction with the public

[6] the TSBBE's web site has the e-mail address of the Executive Director whereby the public can send inquiries and comments to the Executive Director

IV. Funding

A. Describe the agency's process for determining budgetary needs and priorities.

The TSBBE's legislative appropriations requests and subsequent budgets follow the "building blocks" methodology established by the 78th Texas Legislature. Contingent upon the appropriations, the TSBBE prioritizes its budget while attempting to accommodate the strategies laid out in the strategic plan. Simultaneously, performance measures and goals are used to develop a budget. The TSBBE also uses legislative priorities, industry input, and enforcement trends to set its operations and budgetary needs, thereby ensuring the most effective use of resources. Additionally, the TSBBE's budget is prepared with direct input from staff and is reviewed and approved by the Board

PLEASE FILL IN EACH OF THE CHARTS BELOW, USING EXACT DOLLAR AMOUNTS.

B. Show the agency's sources of revenue. Please include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency. See Exhibit 5 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 5: Sources of Revenue – Fiscal Year 2002 (Actual)	
Source	Amount
Legislative Appropriations – Original	\$589,934.00
Additional Leg Appropriations – Payroll Related	204,037.81
Fees Collected for Barber School Tuition Protection Account	25,110.00
Fees Collected for Texas Online	4,116.00
Legislative Appropriations Transfer In – for SORM Charges	19,966.80
Appropriated Receipts – Sales of Books and Lists	\$3,956.80
TOTAL	\$847,121.41

C. If you receive funds from multiple federal programs, show the types of federal funding sources. See Exhibit 6 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 6: Federal Funds □ Fiscal Year 2002 (Actual)				
Type of Fund	State/Federal Match Ratio	State Share	Federal Share	Total Funding
None				
TOTAL				

D. If applicable, please provide detailed information on fees collected by the agency. See Exhibit 7 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 7: Fee Revenue and Statutory Fee Levels □ Fiscal Year 2002				
Description/ Program/ Statutory Citation	Current Fee/ Statutory maximum	Number of persons or entities paying fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Please see fee schedule				
Total Revenue all Sources			\$977,125	All deposited to GR except for appropriated receipts from sales of books and lists.

E. Show the agency's expenditures by strategy. See Exhibit 8 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 8: Expenditures by Strategy □ Fiscal Year 2002 (Actual)	
Goal/Strategy	Amount
Licensing and Examination	\$200,138.35
Enforcement	\$404,825.51
Capital Budget	\$28,798.16
Texas Online	\$4,116.00
GRAND TOTAL:	\$637,878.02

F. Show the agency's expenditures and FTEs by program. See Exhibit 9 Example or [click here to link directly to the example.](#)

(Texas State Board of Barber Examiners) Exhibit 9: Expenditures and FTEs by Program – Fiscal Year 2002 (Actual)					
Program	Budgeted FTEs, FY 2002	Actual FTEs as of August 31, 2002	Federal Funds Expended	State Funds Expended	Total Actual Expenditures
Licensing & Exam	5	5	N/A	\$200,138.35	\$200,138.35
Enforcement	9	8	N/A	\$404,825.51	\$404,825.51
Capital Budget	0	0	N/A	\$28,798.16	\$28,798.16
Texas Online	0	0	N/A	\$4,116.00	\$4,116.00
TOTAL	14	13	N/A	\$637,878.02	\$637,878.02

G. Show the agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2004-2005. See Exhibit 10 Example or [click here to link directly to the example](#). Add columns and rows as necessary.

(Texas State Board of Barber Examiners)			
Exhibit 10: Objects of Expense by Program or Function -- Fiscal Year 2004***			
Object-of-Expense Informational Listing	Strategy, Program, Division, or Function <u>Licensing</u>	Strategy, Program, Division, or Function <u>Enforcement</u>	Strategy, Program, Division, or Function <u>Total Agency</u>
Salaries & Wages	\$195,642	\$182,912	\$378,554
Other Personnel Costs	3,547	5,774	9,321
Operating Costs	123,919	102,882	226,801
Total, FY 2004 Object-of-Expense Informational Listing	\$323,108	\$291,568	\$614,676

Objects of Expense by Program or Function -- Fiscal Year 2005***			
Object-of-Expense Informational Listing	Strategy, Program, Division, or Function <u>Licensing & Exam</u>	Strategy, Program, Division, or Function <u>Enforcement</u>	Strategy, Program, Division, or Function <u>Total Agency</u>
Salaries & Wages	\$195,642	\$182,912	\$378,554
Other Personnel Costs	3,547	\$5,774	9,321
Operating Costs	123,919	\$102,882	226,801
Total, FY 2005 Object-of-Expense Informational Listing	\$323,108	\$291,568	\$614,676

*** Actual operating budgets for Fiscal Years 2004 and 2005 will be revised (perhaps significantly) when the detailed operating budget for Fiscal Year 2004 is created in September, 2003

H. Please fill in the following chart. See Exhibit 11 Example or [click here to link directly to the example.](#)

(Texas State Board of Barber Examiners)				
Exhibit 11: Purchases from HUBs				
FISCAL YEAR 2000				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	0	0	n/a	11.9%
Building Construction	0	0	n/a	26.1%
Special Trade	0	0	n/a	57.2%
Professional Services	Not available	Not available	Not available	20.0%
Other Services	Not available	Not available	Not available	33.0%
Commodities	Not available	Not available	Not available	12.6%
TOTAL				
FISCAL YEAR 2001				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	0	0	n/a	11.9%
Building Construction	0	0	n/a	26.1%
Special Trade	0	0	n/a	57.2%
Professional Services	\$795	0	0.0%	20.0%
Other Services	\$76,343	\$2,254	2.9%	33.0%
Commodities	\$23,874	0	0.0%	12.6%
TOTAL	\$101,012	\$2,254	2.2%	

FISCAL YEAR 2002				
Category	Total \$ Spent	Total HUB \$ Spent	Percent	Statewide Goal
Heavy Construction	0	0	n/a	11.9%
Building Construction	0	0	n/a	26.1%
Special Trade	0	0	n/a	57.2%
Professional Services	\$630	0	0.0%	20.0%
Other Services	\$74,306	\$5,856	7.9%	33.0%
Commodities	\$13,937	\$170	1.2%	12.6%
TOTAL	\$88,873	\$6,026	6.8%	

Only about 6% of the TSBBE's expenditures for services and commodities are discretionary, i.e., expenditures are not constricted by one of the following:

[1] state statute: pursuant to the Texas Occupations Code, 1601.262, the TSBBE contracts with the Professional Testing Corporation to provide and score the TSBBE's written examination

[2] state contract: the TSBBE's contract for its database (licensing, examination, enforcement student data) is pursuant to Northrop Grumman's contract with the Department of Information Resources

[3] narrow list of providers: the TSBBE's long-distance telephone contract is with AT&T, one of the few long-distance providers available

Nevertheless, the TSBBE continues to seek opportunities to increase its HUB purchases by seeking vendors through the TBPC's list of qualified vendors.

J. For agency with contracts valued at \$100,000 or more:

	Response / Agency Contact
Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available under contracts of \$100,000 or more? (Tex. Government Code, Sec. 2161.252; TAC 111.14)	

K. For agencies with biennial appropriations exceeding \$10 million:

	Response / Agency Contact
Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	
Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	
Has your agency developed a mentor-protege program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	

V. Organization

A. Please fill in the chart below. If applicable, list field or regional offices. See Exhibit 12 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 12: FTEs by Location — Fiscal Year 2002			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2002	Number of Actual FTEs as of August 31, 2002
Headquarters (Administrative Staff)	Austin		
	Executive Director	1	1
	Chief Financial Officer	1	1
	Enforcement Specialist	1	1
	Education Specialist	1	1
	Licensing Specialist	1	1
	Staff Services	1	1
Field Offices (Inspectors)	Lubbock	1	1
	Ft. Worth	1	1
	Dallas	1	1
	Austin	1	0
	Houston	2	2
	Corpus Christi	1	1
	San Antonio		1
TOTAL		14	13

B. What was the agency's FTE cap for fiscal years 2002 - 2005?

FY02: 14
 FY03: 14
 FY04: 13
 FY05: 13

C. How many temporary or contract employees did the agency have as of August 31, 2002?

2

D. Please fill in the chart below. See Exhibit 13 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners)							
Exhibit 13: Equal Employment Opportunity Statistics							
FISCAL YEAR 2000							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	1	0%	5%	0%	8%	0%	26%
Professional	1	0%	7%	0%	7%	1 (100%)	44%
Technical	8	3 (37.5%)	13%	1 (12.5%)	14%	0%	41%
Protective Services	0	0%	13%	0%	18%	0%	15%
Para-Professionals	0	0%	25%	0%	30%	0%	55%
Administrative Support	4	0%	16%	1 (25%)	17%	4 (100%)	84%
Skilled Craft	1	0%	11%	0%	20%	0%	8%
Service/Maintenance	0%	0%	19%	0%	32%	0%	27%

CALENDAR YEAR 2001							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	2	0%	5%	0%	8%	0%	26%
Professional	1	0%	7%	0%	7%	1 (100%)	44%
Technical	9	3 (33%)	13%	2 (22%)	14%	0%	41%
Protective Services	0	0%	13%	0%	18%	0%	15%
Para-Professionals	0	0%	25%	0%	30%	0%	55%
Administrative Support	5	1 (20%)	16%	1 (20%)	17%	5 (100%)	84%
Skilled Craft	2	1 (50%)	11%	0%	20%	0%	8%
Service/Maintenance	0	0%	19%	0%	32%	0%	27%
CALENDAR YEAR 2002							
Job Category	Total Positions	Minority Workforce Percentages					
		Black		Hispanic		Female	
		Agency	Civilian Labor Force %	Agency	Civilian Labor Force %	Agency	Civilian Labor Force %
Officials/Administration	1	0%	5%	0%	8%	0%	26%
Professional	1	0%	7%	0%	7%	1 (100%)	44%
Technical	1	1 (100%)	13%	0%	14%	0%	41%
Protective Services	0	0%	13%	0%	18%	0%	15%
Para-Professionals	0	0%	25%	0%	30%	0%	55%
Administrative Support	5	1 (20%)	16%	1 (20%)	17%	5 (100%)	84%
Skilled Craft	7	2 (28.5%)	11%	2 (28.5%)	20%	1 (14.2%)	8%
Service/Maintenance	0	0%	19%	0%	32%	0%	27%

E. Does the agency have an equal employment opportunity policy? How does the agency address performance shortfalls related to the policy?

Page 25 of the TSBBE's Personnel Manual states the following:

Equal Employment Opportunities: The Board is committed to equal employment opportunities. Employment discrimination on the basis of race, color, national origin, sex, religion, age, mental or physical disability, and retaliation shall be strictly prohibited. Any employee found to have violated any law prohibiting employment discrimination in his/her official capacity as an agent of the Board by an administrative agency enforcing such laws or a court of competent jurisdiction shall be subject to disciplinary action up to and including termination.

Management is primarily responsible for seeing that the TSBBE's equal employment opportunity policies are implemented, but all staff share responsibility for assuring that by their personal actions the policies are effective and apply uniformly to everyone.

VI. Guide to Agency Programs

Please complete this section for each agency program (or each agency function, activity, or service if more appropriate). Copy and paste the question boxes as many times as needed to discuss each program, activity, or function. Please contact Sunset staff with any questions about applying this section to your agency.

A. Please complete the following chart.

(Texas State Board of Barber Examiners) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Examination and Licensing
Location/Division	5717 Balcones Drive, Suite 217 Austin, Texas 78731
Contact Name	Douglas A. Beran, Ph.D., Beverly Williamson, Margie Weaver, Mary Houston
Number of Budgeted FTEs, FY 2002	5
Number of Actual FTEs as of August 31, 2002	5

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

1. issue initial and renewal permits for 29 barber schools/colleges that instruct prospective barbers, barber technicians, manicurists, and barber teachers in the TSBBE's prescribed curricula
2. since 1969, maintain a paper history (enrollment, withdrawal, re-enrollment, transfer, hours completed) of every student and student teacher who has ever attended and currently attends one of the barber schools/colleges (approximately 245,700 records, i.e., pieces of paper)
3. process student applications for monthly examinations and identify those students who passed and failed the examinations.
3. administer practical and written examinations for barbers, barber technicians, manicurists, and barber teachers who have completed successfully the prescribed curricula
4. issue initial licenses and permits for barbers, manicurists, barber technicians, and barber teachers who complete successfully the practical and written examinations
5. issue initial permits for barber shops, manicurist shops, booth rentals in barber shops (barber chairs rented by barbers from the owners/operators of the barber shops), dual shops (locations where barbers, barber technicians, and cosmetologists practice simultaneously)
6. renew licenses and permits through the routine paper procedures and through the internet (*TexasOnline*)
7. issue Texas barber licenses through reciprocity with other states

- 8. issue duplicate licenses
- 9. maintain paper files for current licenses and permits (approximately 171,800 records, i.e., pieces of paper)

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The program was established in 1929 with the creation of the TSBBE. The statutory and regulatory requirements for this program are cited in the Texas Occupations Code (TOC), Chapter 1601, Barbers, and the Texas Administrative Code (TAC), Title II, Chapter 52, Practice and Procedure.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

There will not be a time when examinations and licensing no longer will be needed.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Following is a statistical breakdown (August 2003) of persons and entities affected by the examination and licensing functions of the TSBBE:

Schools	29
Barbers	16,934
Manicurists	879
Barber Techs	59
Wig Specialists	5
Barbershops	3,232
Dual Shops	2,513 (shops where barbers and cosmetologists practice together)
Manicurist Shops	187
Booth Rentals	5,473
Manicurist Booth Rentals	175

The qualifications and eligibility requirements for persons or entities affected are set forth in the Texas Occupations Code, Chapter 1601, Barbers and the Texas Administrative Code, Title 22 (Examining Boards), Part 2 (Texas State Board of Barber Examiners), Chapter 51 (Practice and Procedure).

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

Permitting and Permit Renewal of Barber Schools.

An applicant for a barber school permit must comply with the requirements set forth in the TOC and the TAC. After the applicant's proposed site has been pre-approved by a TSBBE inspector, the applicant submits the appropriate application documents and fees to the TSBBE's Education Specialist. The documentation is reviewed for completeness and compliance with criteria in the TOC and TAC. Subsequently, the site is inspected by two board members or one board member and the TSBBE's executive director. If the site complies with the TOC and TAC, the school is approved. All permitted barber schools/colleges renew their permits annually on September 1 with a payment of \$300.

Examination and Issuance of the Initial License

The TSBBE holds its examinations only in Austin. Every month, students who have completed the course of instruction at the 29 Texas barber schools comes to the Frank Joseph Building to undertake the practical examination (shaving, haircutting, manicuring) and the written examination. Each examinee pays his/her own travel costs and the travel costs of his/her own human model for shaving/hair cutting or manicuring. The TSBBE pays the travel costs for four examiners (Board members) and one inspector [occasionally two if needed by number of examinees and/or the primary language (e.g., Spanish)] to assist the Board members.

The four barbers on the TSBBE prescribe the method and content of the practical and written examinations for barbers, barber technicians, manicurists, and barber teachers. Each month, they conduct the examinations in Austin. The Vice-Chair oversees the examinations. Board members grade the practical examinations and the written examinations are submitted to the Professional Testing Corporation (New York) under the contract prescribed by TOC 1601 §262(b)(2).

A student's school submits the examination application form, other required documentation (e.g., physician's statement), and the student's examination fee (either a money order or a voucher from the Texas Rehabilitation Commission). The application is reviewed for completeness by the TSBBE's education specialist. If there are any deficiencies in the application, the student's school is notified by a phone call.

If the application is complete, the student is scheduled for the next available examination. Each student decides when he/she will take the examination by sending the paperwork by the due date for the requested examination date. Once admitted into the examinations, a student is allowed one-one-half hours to complete the practical examination and one hour to complete the written examination.

If an applicant passes the examination, the school is notified and the school notifies the applicant who submits the application and fee for a new barber license. If the applicant fails the examination, the school is notified of the deficiencies and the applicant is scheduled for another examination upon payment of a new examination fee.

Renewal of licenses through the internet (*TexasOnline*)

Approximately 30 days prior to the expiration of a barber license or manicurist license , a renewal notice is mailed to the licensee. A renewal form is also attached to the original license when it is first issued. Enclosed with the renewal form is a ***Texas OnLine*** notice (postcard).

The licensee has the option of either mailing the renewal and fee or renewing online by connecting directly to *TexasOnline* through the TSBBE's web site or connecting to the ***TexasOnline*** web site (*both web addresses are cited on the renewal form*) to pay the fees by credit card.

An individual cannot renew online if his/her license is blocked for failure to pay an administrative fine; once the administrative fine has been paid, then the license is unblocked for renewal online

Once the credit card payment is made online, the individual sends the completed physician's statement (i.e., health certificate) to the TSBBE office to complete the renewal process.

When the attempt is made online, a report is sent to the TSBBE office from Northrop Grumman via the TSBBE's network printer.

When the credit card company deposits the fee into USAS, Northrop Grumman sends a confirmation report via the TSBBE's network printer.

When the physician's statement is received at the TSBBE office, the printing of the license is ordered

Renewal of licenses through routine paper procedures

When the paper renewal is received at the TSBBe office, the individual is researched to verify the license is in good standing, i.e., does not owe an administrative fine (see procedure for issuance of a shop permit)

Any change of address is made according to individual's request on renewal form.

Any change of name must be accompanied by required documentation or returned to licensee with fee.

The renewal form is checked for completed physician's statement (health certificate) and the correct fees (renewal fine plus any late fees); if not, all forms and fees are returned to licensee for completion

Renewal form must be notarized. If not, all forms and fees are returned to licensee for correction.

If all requirements are met and complete, the license is ordered through a cash batch at Northrop Grumman.

Issuance of a duplicate license

A licensee submits a written request for a duplicate license to the TSBBE containing the name, license file number, social security number for verification, any change of address, and a money order in the amount of \$10.00

When the request and fee are received, the information is verified, and the duplicate license or permit is ordered

Issuance of a initial barbershop or manicurist shop permit

When an application is received at the TSBBE, office for a new shop, the following procedure occurs:

[1] The applicant's name and file number are researched to verify the license is current and in good standing according to Texas Administrative Code, Chapter 51, Section 51.5:

No license or permit shall be issued or renewed unless the licensee is in good standing with the Board. Good standing included, but is not limited to, compliance with the Barber Law and Board Rules, no default on court ordered child support payments, and payment in full of all administrative penalties assessed against the licensee. The Executive Director has the discretion to waive the payment in full of all administrative penalties requirement for license renewal."

[2] The application is checked for a signature of both the owner (if he/she is not a barber for a barbershop permit) and the barber whose name must appear on the permit (TOC Chapter 1601, Subchapter G, Section 1601.303).

[3] The location is researched by entering the address into the database to see if there is already a permit for that location. If so, there is a section on the application for previous ownership to be entered. If there is a previous permit for the location, it is cancelled.

[4] After all verification is completed, the shop is set up in the database and assigned to the correct inspector for approval.

[5] If the inspector disapproves the site, the applicant is given a certain amount of time to correct the deficiencies for a follow-up visit. If, on the follow-up visit, the site still is non-compliant, the permit is withdrawn by the inspector.

Issuance of an Initial Booth Rental Permit (Barber and Manicurist)

When an application for a new Booth Rental Permit is received, the following procedure is followed:

[1] The Barber's or Manicurist's license is verified as current and in good standing (see previous procedure)

[2] The name and address of the barbershop or manicure shop is verified as properly permitted and current where the licensee wishes to rent a space or chair.

[3] The Booth Rental Permit is set up in the data base

[4] The permit is ordered through entering into a cash batch at Northrop Grumman.

Issuance of a Shop Renewal

The following is the procedure for renewing a shop permit:

- [1] The renewal application is researched to verify the name on the permit is a barber or manicurist who is current and in good standing (see procedure for permit issuance above).
- [2] Any changes of ownership, location, or if there is not a barber or manicurist listed on the permit, require the renewal to be returned and a new application submitted.
- [3] When all is verified, the permit is ordered through a cash batch at Northrop Grumman.

Issuance of a Booth Rental Permit Renewal

The following is the procedure for renewing a Booth Rental Permit

- [1] The renewal application is researched to verify the licensee is current and in good standing (see procedure for permit issuance above).
- [2] Any change of location is researched to verify a current barber shop permit is in place.[3]
- [3] When verification is complete, the permit is ordered through a cash batch at Northrop Grumman.

Issuance of Texas barber licenses through reciprocity with other states

The TSBBE issues a Texas barber license to individuals from other states who qualify under the criteria set forth at TOC 1601.267 Reciprocal License or Certificate.

On January 6, 2003, the TSBBE adopted the following policy regarding reciprocal licensing:

The Texas State Board of Barber Examiners shall require that any licensee from another state shall have held the license for one year or can prove through transcripts or other documents that he/she has obtained substantially equivalent hours or training required in Texas.

To obtain a Texas barber license by reciprocity, an applicant must be at least 16 years old and must submit the following to the TSBBE's education specialist:

1. A complete application with all required documents, a money order or cashier's check for the \$90.00 application fee and the \$70.00 licensing fee for the two year Class A registered barber certificate.
2. Proof of at least a 7th grade education and a 2 x 2 passport-type photograph.
3. A current original barber license (*that is returned*) from the home licensing board or barber school; if the applicant is working and cannot send the original, a copy may be sent stating why the copy was submitted.
4. A certified transcript of completed hours in an approved barber school and proof of graduation; if the applicant has an apprentice or assistant barber license, proof of 1,500 hours of barber school or working experience is required from the licensing board or barber school.

Self-Evaluation Report

5. Documented work experience can be substituted at the rate of 25 hours per month worked, up to a maximum of 500 hours, or the applicant must complete the balance of hours required in an approved Texas barber school if the applicant graduated in a state that requires less than 1,500 hours of barber school education (Texas requires 1,500 hours)
6. A physician's statement (TB test) signed by a doctor; the physician's statement may be completed and notarized in another state not more than 90 days prior to application.
7. A letter from the licensing board in the home state, bearing its official seal of office, stating that the applicant's license is current and that no disciplinary action has been taken or is pending against the applicant.
8. Authentication of a change of name in the form of a photostatic copy of the applicable court order or marriage license if the documents submitted do not bear the same name.

G. If the program or function works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

Not applicable

H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSBBE's source of funding for Examinations and Licensing (**A. Goal: Examine and License, General Appropriations Act 78th Texas Legislature, Regular Session, Article VIII**) is General Revenue. All fees and administrative penalties collected by the TSBBE are deposited into General Revenue, with the exception of appropriated receipts generated by the sales of books of statutes and rules and the sales of lists.

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

No.

Management Information System

The TSBBE's licensing database is housed at Northrop Grumman pursuant to its contract with the Department of Information Resources. The licensing information system is an interactive, on-line inquiry and update system with renewals and reports occurring in nightly batch processing. Master file updates are accomplished on-line. The host computer is a Virtual Addressing Xtension (VAX) Alpha Machine where the primary programming language is 1032 - Forms with the database System - 1032. Access is with a Telnet connection through PCs. The TSBBE operates in a timesharing mode connected to Northrop Grumman's computer system. The licensing system allows on-line inquiry and updating of the TSBBE's file for each licensee and permit holder. Each employee has a password to access the licensing system and changes the password periodically. The TSBBE maintains and updates files on barbers, barbershops, manicurists, manicurist shops, barber technicians, barber booth rentals, manicurist booth rentals, wig specialists, and dual shops.

The inception date for the VAX is 1989. Since that time, there have been numerous and costly modifications to the VAX to either correct programming errors or to provide additional fields and reports to assist the TSBBE in its examination/licensing tasks. If the licensing database (**1032 - Forms**) could be updated to **PowerBuilder/Client-Server Technology**, data entry into the licensing database would be more user friendly and would allow the TSBBE to automate its performance measures, other manual reports, and facilitate other examination/licensing tasks. These updates would make the Barber Board more efficient and effective.

Certain changes/additions to the database, such as the following, would need to occur to utilize fully the **PowerBuilder/Client-Server** application:

- add a teacher license data field with expiration date
- add a data field to track the hours of each student enrolled in a barber school/college (i.e., create a transcript for each student who has ever attended a barber school/college in Texas)
- add fields to track each consumer complaint (dates, type, resolution) per licensee and investigations conducted per licensee
- add report to track number of new licenses by type [e.g., barbers, manicurists, barber technicians, barber shops, booth rentals, schools, manicurist shops, dual shops) and dates (inclusive of receipt dates and dates issued/mailed]
- add report to track number of renewals by types and dates (similar to previous data fields)
- add report to show the number of individuals examined; the number of individuals who passed the written exam, the practical exam, and both
- correct the following:
 - (1) the error that issues some licenses with incorrect renewal dates by disallowing any renewal dates greater than 26 - 27 months
 - (2) the error that allows the program to open previously closed batches when staff is entering data in to the cash batch
 - (3) the error that allows "double-entry into wrong batch" to prevent a double update of a license renewal

There are three options available to the TSBBE to make its management information system efficient and effective:

Option 1: Replace the current screens in the VAX with a **PowerBuilder** application to allow direct access to data for read/write (display and update) and ad hoc reports. If this option were selected, it would include the capabilities of Option 2 and, essentially, would provide a new front end for the system. Northrop Grumman's estimated cost is \$48,000.

Option 2: Add three modules/subsystems to the current system (teacher, enforcement, student enhancements), correct the programming errors, and expand the reports request screen to include quarterly reports. Northrop Grumman's estimated cost: \$28,000.

Option 3: Create a new database using modern software and equipment located on TSBBE-owned servers. This option would save tens of thousands of dollars over the course of four to six years when contrasted with the costs of maintaining and modifying the existing system at Northrop Grumman. This option also would improve significantly the Agency's ability to track, inspect, updates and report information on its licensees.

Examination Rooms at the Frank Joseph Building (FJB)

On June 17, 2002, pursuant to the General Appropriations Act, 77th Texas Legislature, R.S., VIII-12), the TSBBE voted unanimously to move the barber exams from the Roffler School of Hair to the FJB even though significant modifications to the examination rooms at the FJB were necessary at the time and still are necessary to make the rooms equivalent to those examinees encountered at the Roffler School of Hair and presently encounter at the state's other 28 barber schools/colleges and at a typical barbershop. This move was effective for the examinations on July 8. The costs offered by the Texas Building and Procurement Commission for these modifications are \$9,528 (one exam room) and \$16,144 (two exam rooms). The TSBBE does not have such funds.; however, **II. History and Major Events: Key Organizational Events and Areas of Change and Impact on the Agency's Organization**

suggests a source of funds to remodel the examination rooms. Nevertheless, the TSBBE attempts to provide a quality and professional examination experience for the examinees at the FJB.

Barber School Tuition Protection Account (Texas Occupations Code, §1601.3571)

The 77th Texas Legislature (SB660 and HB3088) established the Barber School Tuition Protection Account (\$25,000) to refund unused tuition to students if a barber school were to cease operation before the students' course of instruction was complete. SB660 authorized the TSBBE to administer claims made against the account; however, SB660 did not appropriate the funds to the TSBBE. HB30888 required the TSBBE to collect the \$25,000 and deposit those funds with the Comptroller of Public Accounts. In December 2001, the TSBBE assessed each barber school/college \$930 to fund the account. But, because the 77th Legislature did not provide a rider to appropriate the account to the TSBBE, if any barber school/college were to discontinue operating during the 2002 -2003 biennium, the TSBBE could not administer any claims that could arise against the account.

The TSBBE requested an appropriation rider from the 78th Texas Legislature to expend these funds should any claim be made against the account. The rider was not approved. Moreover, the Conference Committee of the Senate Finance Committee and the House Appropriations Committee directed the Comptroller of Public Accounts to not expend funds from the Tuition Protection Account.

Subsequently, the Attorney General issued the following opinion [[GAA-0092 [Re: Use of Barber School Tuition Protection Account Administered by the State Board of Barber Examiners (RQ-0024-GA)]]:

Summary: Claims for unused tuition from a barber school that ceases operation may be paid from the barber school tuition protection account regardless of the source of the unused tuition. The Board of Barber Examiners administers claims against the account. The account is created as a trust fund with the Comptroller of Public Accounts, who is responsible for disbursements by warrant or electronic funds transfer from the fund. Because the account is a trust fund, the strictures of Article VIII, Section 6 of the Texas Constitution do not apply to it.

The TSBBE has requested the Comptroller of Public Accounts to state its position vis-à-vis (1) the actions of the Conference Committee of the Senate Finance Committee/House Appropriations Committee and (2) the Attorney General's Opinion. As of the writing of this Self-Evaluation Report, the Comptroller is studying the issue but has not responded.

Budget Constraints on Travel

In FY02, the TSBBE spent approximately \$11,000 on Board travel. As stated in **II. History and Major Events, Impact of State Funding**, the TSBBE conducts its monthly practical examinations in Austin. Board meetings are held every two months and typically follow the conclusion of the examinations on the same day. The TSBBE pays the travel costs for four examiners (Board members) and one or two inspectors to assist the Board members. Reducing travel costs by scheduling examinations less frequently to accommodate the 6% reductions in FY04 - FY05 would impact directly and negatively the TSBBE's services by delaying students' examinations and their subsequent entrance into a wage-earning profession.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable,

briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

A. Please complete the following chart.

(Texas State Board of Barber Examiners) Exhibit 14: Program or Function Information — Fiscal Year 2002	
Name of Program or Function	Enforcement
Location/Division	5717 Balcones Drive, Suite 217 Austin, Texas 78731
Contact Name	Douglas A. Beran, Ph.D., Margie Weaver
Number of Budgeted FTEs, FY 2002	9 (1 vacant)
Number of Actual FTEs as of August 31, 2002	8

B. What are the key services of this function or program? Describe the major activities involved in providing all services.

1. regulate 29 barber schools/colleges that instruct prospective barbers, barber technicians, manicurists, and barber teachers in the TSBBE's prescribed curricula
2. routinely inspect all licensees (barbers, barber technicians, manicurists, barber teachers) and permitted facilities (barber schools/colleges, barbershops, barber booth rentals, manicurist shops, manicurist booth rentals, dual shops) for compliance with the Texas barber law and the rules of the TSBBE
3. investigate all jurisdictional complaints against licensees and permitted facilities.
4. levy fines and penalties against licensees and permit holders who violate the barber law and the TSBBE's rules as provided in the Texas Occupations Code Chapter 1601 Subchapter O. Administrative Penalties
5. issue final orders pursuant to agreed orders at informal conferences and proposals for decision from the State Office of Administrative Hearings
6. block licenses and permits of those individuals who have not paid their administrative fines as required by the final orders
7. provide enforcement assistance gratis to the Texas Cosmetology Commission; pursuant to the General Appropriations Act, 78th Texas Legislature, Regular Session, Article VIII-10, Rider 1 (statewide crossover inspection and enforcement program), the TSBBE routinely inspects all dual shops (licensees and facilities) for compliance with the Texas Occupations Code Chapter 1602. Cosmetologists at no cost to the TxCC. The TSBBE also levies fines and penalties against licensees on behalf of the TxCC. These are forwarded to the TxCC for its action.

C. When and for what purpose was the program or function created? Describe any statutory or other requirements for this program or function.

The program was established in 1929 with the creation of the TSBBE. The statutory and regulatory requirements for this program are cited in the Texas Occupations Code (TOC), Chapter 1601, Barbers, and the Texas Administrative Code (TAC), Title II, Chapter 52, Practice and Procedure.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program or function will no longer be needed?

There will not be a time when enforcement no longer will be needed.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

Following is a statistical breakdown (August 2003) of persons and entities affected by the enforcement function of the TSBBE:

Schools	29
Barbers	16,934
Manicurists	879
Barber Techs	59
Wig Specialists	5
Barbershops	3,232
Dual Shops	2,513 (shops where barbers and cosmetologists practice together)
Manicurist Shops	187
Booth Rentals	5,473
Manicurist Booth Rentals	175

The qualifications and eligibility requirements for persons or entities affected are set forth in the Texas Occupations Code, Chapter 1601, Barbers and the Texas Administrative Code, Title 22 (Examining Boards), Part 2 (Texas State Board of Barber Examiners), Chapter 51 (Practice and Procedure).

F. Describe how the program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.

The Agency's "Risk Based Licensee Inspection Policy" provides the following:

Category One Inspections - Inspections will be monthly or more frequently as needed until issues or concerns are resolved to the satisfaction of the State Barber Inspector. Chronic violators with a history of multiple citations or other special situations may require special monitoring and inspection requirements.

- Licensees with current and/or past complaints and violations related to consumer protection, health and safety, sanitation and sterilization issues
- Violations by individuals involving use of either expired licenses or permits, and practicing without licenses or permits
- Newly licensed barber shops
- Changes in licensee ownership and/or physical location of licensee shops

Category Two Inspections - Agency licensed barber schools and barber colleges, together with student progress records are to be inspected at a minimum of once per month or as frequently as needed until issues or concerns are resolved to the satisfaction of the State Barber Inspector.

Category Three Inspections - Barber shops and individual TSBBE licensees and permit holders without previous violations or complaints will be inspected by the State Barber Inspector on a three-to-six-month's basis. These inspections are to ensure continued compliance with the Texas Barber Law and Rules and Regulations Governing Sanitary Conditions of barbershops, barber schools/colleges.

Special Note: Shops that are dual licensed by the Texas Cosmetology Commission and Texas State Board of Barber Examiners will be inspected as either Category One or Three, as listed above.

Thus, each inspector returns to a shop to determine -- pursuant to his/her level of satisfaction -- if a violation has been corrected (Category One Inspections). For example, in lieu of writing a ticket, an inspector may note on an inspection report (that is left at the barbershop for posting on the wall) that he/she will follow-up at some point in time to see if a violation has been corrected. On the subsequent visit, if the violation has not been corrected, the inspector will write a ticket. The inspector also has the discretion to write a ticket upon initially discovering the violation. The inspector will visit the violator again as part of his/her routine inspection itinerary. At that time, he/she will write another ticket if the violation has not been corrected. The Executive Director may direct (i.e., require) an inspector to visit a shop that has received a violation if the Executive Director and the respondent agree to such a follow-up as part of an "agreed order."

Once a violation (ticket) has been written by a TSBBE inspector for an alleged violation of the Barber Law and/or rules of the TSBBE, the procedures laid out in the Texas Occupations Code, Chapter 1601, Subchapter O, Administrative Penalties are followed. And, once a "final order" has been issued by the TSBBE, a license/permit is blocked if the individual fails pay the fine amount cited in the TSBBE's "final order" (Rule §51.5 Good Standing Required for License Renewal). Rule §51.3 Administrative Fines lists the fine for each violation. An individual is allowed to renew his license/permit once the fine has been paid, subject to late penalties.

G. If the program or function works with local units of government, (e.g., Councils of Governments,

Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency.

When inspectors discover possible violations of other statutes (e.g., penal code, tax code, health code), they work with local agencies, as needed.

H. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

The TSBBE's source of funding for Enforcement (**B. Goal: Investigations, General Appropriations Act 78th Texas Legislature, Regular Session, Article VIII**) is General Revenue (all fees and administrative penalties collected by the TSBBE are deposited into General Revenue)

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

No.

The TSBBE has seven field inspectors. To minimize travel costs, each inspector is located within a region and the headquarters for that region is the city with the preponderance of shops and licensees that are to be inspected: Lubbock, Ft. Worth, Dallas, Houston (2 inspectors), Corpus Christi, San Antonio. In FY2002, the TSBBE's field inspectors traveled 151,800 miles to inspect 15,501 shops and 45,279 individuals at a cost of \$74,741. This occurred even though the TSBBE imposes the following travel restrictions on its field inspectors.

- The TSBBE uses a self-imposed hotel rate of \$60 per night rather than the state-allowed \$80.00 per night.
- The TSBBE reimburses inspectors \$0.32 per mile rather than the state-allowed \$0.35 per mile.
- Complaints take precedence over routine inspections.
- The TSBBE's reimbursement criteria for meals are more restrictive than state guidelines:
 - \$12.50 maximum (state maximum = \$25.00) for an inspector who travels out of headquarters and back in the same day even though the state allows \$25.00
 - \$15.00 maximum for departure days and \$15.00 for return days on overnight and extended inspection trips (state maximum = \$30.00)
 - \$25.00 maximum for full days away from headquarters on extended inspection trips (state maximum = \$30.00)
- Even though not required by state travel regulations, to ensure cost effectiveness, the TSBBE requires each inspector to submit original, detailed meal receipts from the vendors (e.g., restaurants, cafeterias) for reimbursement.

As noted under F, the Executive Director may direct (i.e., require) an inspector to visit a shop that has received a violation if the Executive Director and the respondent agree to such a follow-up as part of an "agreed order." However, there are constraints on these follow-up visits. First, complaints take precedence over routine inspections and follow-up inspections of violators. Second, budget constraints do not permit an inspector to return indiscriminately to a violator's

premises; instead, the return visit must be part of an inspector's planned travel to a certain vicinity of the state so that other shops in the inspector's territory are inspected.

Under the 7% budget reductions for FY03 issued by the Governor, Lt. Governor, and Speaker of the House, the Agency first canceled overnight travel and restricted inspections to the inspectors' headquarters areas; subsequently, the agency reduced inspectors' travel by 50% with the discretion to make wise choices concerning which shops to inspect within their respective regions and the frequency of those inspections. The travel reductions were lifted July 8, 2003, effective July 9, 2003.

For FY04 - FY05, the TSBBE's appropriations have been reduced by approximately 6%. As noted in **II. History and Major Events, Impact of State Funding**, if the inspectors' travel were reduced, the public health would be jeopardized because there would be fewer inspections. Moreover, there would be a negative impact on General Revenue because the TSBBE's fines/penalties deposited into General Revenue would be reduced, viz., the more frequent the inspections, the more frequently violators are discovered and violations are written. In FY03, the TSBBE deposited \$46,217 into General Revenue for administrative fines and penalties. There would be a similar reduction in fines/penalties collected by the TxCC that are deposited into General Revenue because the TSBBE's inspectors would be inspecting fewer dual shops and writing fewer fines against individuals who violate the Texas Occupations Code, Chapter 1602, Cosmetology. In FY03, the TSBBE inspectors wrote \$67,050 in administrative fines and penalties for TxCC. The amount collected by TxCC is contingent upon TxCC's follow-up administrative actions. Finally, if the TSBBE inspectors' travel were reduced, a negative impact (conceivably, a \$500,000 reduction in General Revenue) could be that licensees would not have as much of an incentive to obtain initial licenses and permits and to renew those licenses and permits because of the reduced chance they would be identified by the TSBBE's inspectors as violating the Barber Law.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

K. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Not applicable.

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The reasons why the regulation is needed are enumerated in **I.C.** of this Report.

Self-Evaluation Report

The scope of, and procedures for, inspections are laid out in **VI. A -- Enforcement** of this Report.

Follow-up activities conducted when non-compliance is identified are described in **IV. A. -- Enforcement** of this Report.

Sanctions available to the agency to ensure compliance are pursuant to the Texas Occupations Code, Subchapter O, Administrative Penalties (§1601.701 - §1601.713) as follows:

Administrative Fines for various violations set forth in the Texas Administrative Code §51.3 Administrative Fines

TSBBE "final orders" regarding Proposals for Decision from the State Office of Administrative Hearings

TSBBE "final orders" for Agreed Orders in the Matter of Assessment of an Administrative Penalty Against Certain Licensees in Cases Brought for Informal Hearings before the Executive Director

Refusal to renew a license/permit pursuant to Texas Administrative Code §51.5 Good Standing Required for License Renewal

The TSBBE also may request the Attorney General to file an action for an injunction or other proceeding against individuals who violate the Texas Occupatins Code, Chapter 1601, Barbers.

The TSBBE's complaint policy reads as follows:

The Board considers any complaint (written or verbal, anonymous or non-anonymous) as valid. A Board inspector investigates any jurisdictional complaint. Any non-jurisdictional complaint is forwarded to the appropriate regulatory agency. If the complaint is non-anonymous, any request for the identity of the complainant shall be forwarded to the Office of the Attorney General who will determine what information regarding the complainant shall be released. Staff of the Texas State Board of Barber Examiners may not identify the complainant.

Under VI. Enforcement, Item F, the Agency's "Risk Based Licensee Inspection Policy" provides that complaints are category one inspections:

Category One Inspections - Inspections will be monthly or more frequently as needed until issues or concerns are resolved to the satisfaction of the State Barber Inspector. Chronic violators with a history of multiple citations or other special situations may require special monitoring and inspection requirements.

- Licensees with **current and/or past complaints** (emphasis added) and violations related to consumer protection, health and safety, sanitation and sterilization issues

As soon as the TSBBE receives a complaint, the appropriate inspector is notified and he/she investigates the complaint and either determines there is no merit to the complaint or issues a warning or a citation. If a citation is written, the administrative procedures set forth in the Texas Occupations Code, Chapter 1601, Subchapter O, Administrative Penalties, are initiated.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

(Texas State Board of Barber Examiners) (Enforcement) Exhibit 15: Complaints <u>Against</u> Regulated Entities or Persons – Fiscal Years 2001 and 2002		
	FY 2001	FY 2002
Number of complaints received	147	107
Number of complaints resolved	144	102
Number of complaints dropped/found to be without merit	67	52
Number of sanctions	408	272
Number of complaints pending from prior years	0	3
Average time period for resolution of a complaint	43.4 days	25.13 days
Number of entities inspected or audited by the agency	Shops/Booth Rentals: 14,401 Individuals: 55,626	Shops/Booth Rentals: 23,722 Individuals: 32,894
Total number of entities or persons regulated by the agency	Shops/Booth Rentals/ Schools: 8,184 Individuals: 30,538	Shops/Booth Rentals/Schools: 9,012 Individuals: 31,222

VII. Agency Performance Evaluation

A. What are the agency's most significant accomplishments?

[1] In FY02, the TSBBE's examination and license performance was as follows:

New licenses and permits issued:

Barbers (710)*	Barbershops (468)
Manicurists (39)	Booth Rentals (670)
Manicurist Shops (72)	Dual Shops (770)

*Includes licensing by examination (616) and reciprocity (87); also includes barbers licensed as teachers (7).

Renewals issued:

Licenses (5,550)	Business facilities (2,658)
------------------	-----------------------------

Individuals examined: 886 (one examination per month; 12 months a year)

[2] In FY03, the TSBBE's examination and license performance was as follows:

New licenses and permits issued:

Barbers (850)*	Barbershops (654)
Manicurists (16)	Booth Rentals (672)
Manicurist Shops (90)	Dual Shops (688)

*Includes licensing by examination (750) and reciprocity (89); also includes barbers licensed as teachers (11).

Renewals issued:

Licenses (5,249)	Business facilities (2,394)
------------------	-----------------------------

Individuals examined: 933 (one examination per month; 12 months a year)

[3] In FY02, with seven inspectors rather than eight inspectors (the Agency did not fill the vacant Austin region inspector because of budget constraints), the Agency's enforcement performance was as follows:

<u><i>Texas Occupations Code, 1601,</i></u> <u><i>Barbers</i></u>	<u><i>Texas Occupations Code 1602</i></u> <u><i>Cosmetologists</i></u>
Shops inspected: 9,682	Dual shops inspected: 6,509
Individuals inspected: 29,837	Cosmetologists inspected: 15,184
Violations (tickets) written: 291 (\$60,138 fines/penalties; \$30,075 collected) (amounts assessed; "final orders")	Violations (tickets) written: 121 (\$39,300 in fines/penalties) (amounts on tickets)
Investigations conducted: 98	
Miles traveled to conduct inspections: 151,800	

[4] For the first eleven months of FY03 (09/01/02 - 08/01/03), again, with seven inspectors and with the 7% budget reductions imposed by the state's leadership, the Agency's enforcement performance was as follows:

<u><i>Texas Occupations Code, 1601,</i></u> <u><i>Barbers</i></u>	<u><i>Texas Occupations Code 1602</i></u> <u><i>Cosmetologists</i></u>
Shops inspected: 6,338	Dual shops inspected: 4,636
Individuals inspected: 17,430	Cosmetologists inspected: 12,697
Violations (tickets) written: 391 (\$93,850 fines/penalties; \$ 46,218 collected) (amounts assessed; "final orders")	Violations (tickets) written: 181 (\$67,050 in fines/penalties) (amounts on tickets)
Investigations conducted: 55	
Miles traveled to conduct inspections: 119,740 (50% travel reduction imposed 02/03 to attain 7% reduction imposed by Gov., Lt. Gov., Speaker)	

In FY02 and FY03, the Agency performed these other enforcement efforts:

FY02
Cases to the State Office of Administrative Hearings: 112
Fines collected: \$19,235

FY03 (09/01/02 - 08/01/03)
Cases to the State Office of Administrative Hearings: 302
Fines collected: \$46,218

Presently, there is no backlog of SOAH cases.

Licenses presently blocked for non-payment of fines/penalties: 219

Established a window on its web site whereby individuals can search for barber students, licensees, shops, and if there is a violation by a licensee

B. Describe the internal process used to evaluate agency performance, including how often performance is formally evaluated and how the resulting information is used by the policymaking body, management, the public, and customers.

At every Board meeting, the following items appears on the Board's agenda:

- Agreed Orders in the Matter of Assessment of an Administrative Penalty Against Certain Licensees in Case Brought for Informal Hearings before the Executive Director
- Proposals for Decision from the State Office of Administrative Hearings
- The Administrative Fine Report
- Year-to-Date Quarterly Report on Renewals, Duplicates, and Late Fees
- Year-to-Date Quarterly Report of New Licenses, Permits, and Exams
- Year-to-Date Report on Enrollments, Re-enrollments, Transfers, and Certifications
- Year-to-Date Report on Performance Measures
- Year-to-Date Financial Report
- Year-to-Date Inspections Report
- Status Report of Any On-Going Audits (e.g., Internal Audit, Audit by State Auditor's Office, Post-Payment Audit by the Texas Building and Procurement Commission, etc.)
- Public Comment

The information provided to the Board and comments from the Board on each of these items is used to modify Agency operations if directed to do so by the Board.

C. What are the agency's biggest opportunities for improvement?

The TSBBE's accomplishments cited in **A** were achieved despite significant fiscal constraints. An opportunity to improve is contingent upon additional funding for the items 1 - 4. For the first three items, perhaps additional funds could be appropriated from General Revenue. A source of additional funds for the last item could be a rider to re-appropriate a portion of the funds collected through the TSBBE's enforcement efforts.

1. Upgrades to Management Information System
2. A Rider to Appropriate the Barber School Tuition Protection Account pursuant to the Texas Occupations Code, §1601.3571
3. Remodeling of Examination Rooms at FJB
4. Travel for examinations and investigations

D. How does the agency ensure its functions do not duplicate those of other entities?

By statute (Texas Occupations Code, Chapter 1601, Barbers), the TSBBE is solely responsible for regulating the barber industry; thus, by statute, the TSBBE is assured that no other entity duplicates its functions.

E. Are there any other entities that could perform any of the agency's functions?

As noted in **D**, by statute (Texas Occupations Code, Chapter 1601, Barbers), the TSBBE is solely responsible for regulating the barber industry; thus, by statute, the TSBBE is assured that no other entity duplicates its functions.

F. What process does the agency use to determine customer satisfaction and how does the agency use this information?

[1] The TSBBE participates at every iteration in the Survey of Organizational Excellence (administered by UT - Austin).

[2] In the Spring 2002, the TSBBE conducted a customer survey to assess customer satisfaction on the following items:

- staff
- facilities
- inspectors
- telephone service
- internet site
- complaint process
- timeliness of requests for service
- brochures and other printed information
- administrative penalties
- examination services

Customers surveyed were --

- barbers
- manicurists
- barber technicians
- manicurist shops
- booth rentals
- barbershops
- dual shops
- barber school instructors

Self-Evaluation Report

- directors of schools/colleges
- exam participants

The overall average rating for all service categories in all customer groups was well above the neutral point with customers giving strong positive ratings to all statements.

[3] The TSBBE also determines customer satisfaction through the Public Comment agenda item that appears at every Board meeting.

[4] Any unsatisfactory comments from any of the three methods are utilized by the Board to give direction to staff.

G. Describe the agency's process for handling complaints against the agency, including the maintenance of complaint files and procedures for keeping parties informed about the process. If the agency has a division or office, such as an ombudsman, for tracking and resolving complaints from the public or other entities, please provide a description.

Complaints against the Agency are given to the Executive Director. Typically, such complaints are against inspectors and office staff. The two most frequent complaints are --

[1] that a complainant has been issued a ticket for violating the Barber law and Barber rules and/or, in the case of a dual shop, the Cosmetology law and rules

[2] that staff will not waiver on their enforcement of the respective law and rules.

The third most frequent complaint is against the "personalities" of staff (e.g., rudeness).

As for [1] and [2], the Executive Director visits with the complainant over the phone and the staff person against whom the complaint has been filed (either verbal or written). Typically, after the Executive Director has visited with the complainant and explained that the law and rules cannot be lax, the complainant understands and becomes compliant.

However, on occasion, a cosmetologist will request that the Barber inspector not inspect that dual shop again. Pursuant to the TSBBE/TxCC "crossover enforcement contract," the TSBBE Executive Director will write a letter to the the Executive Director of the TxCC notifying her that the operator of the dual shop against whom the ticket has been written by the Barber inspector has requested that a TxCC inspector inspect that shop. If the TxCC Executive Director agrees, then the dual shop is henceforth inspected by a TxCC inspector. Nevertheless, the TSBBE Executive Director requests that any Barber issues discovered in the future by the TxCC inspector will be forwarded to the TSBBE's Executive Director for his consideration and action, if appropriate.

With regard to the third most frequent complain, "rudeness," the Executive Director visits with the appropriate staff person for resolution.

H. Please fill in the following chart. The chart headings may be changed if needed to better reflect the agency's practices.

(Texas State Board of Barber Examiners) Exhibit 16: Complaints <u>Against the Agency</u> - Fiscal Years 2002 and 2003		
	FY 2002	FY 2003
Number of complaints received	2	9
Number of complaints resolved	2	9
Number of complaints dropped/found to be without merit	2	9
Number of complaints pending from prior years		
Average time period for resolution of a complaint	15 - 30 days	15 - 30 days

I. What process does the agency use to respond to requests under the Public Information (Open Records) Act?

The Agency responds immediately and reports the open records requests monthly using the web site maintained by the Texas Building and Procurement Commission.

J. Please fill in the following chart with updated information and be sure to include the most recent e-mail address if possible.

(Texas State Board of Barber Examiners) Exhibit 17: Contacts			
INTEREST GROUPS (groups affected by agency actions or that represent others served by or affected by agency actions)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Texas Association of Tonsorial Artists, James "Smitty" Smith	1177 S. Beltline Road Coppell TX 75019	(214) 371-9411 FAX: (972) 906-4967	Smitty1@us.ibm.com
Hair International, Coy Harris	102 W. Hubbard Mineral Wells TX 76067	(940) 325-7472	
Texas Association of Barber Schools, Juan A. Garcia	3917 Ayers Street Corpus Christi TX 78404-3824	(361) 855-0262 FAX: (361) 855-0055	
Joe Shirley		(972) 462-1998	Brbs@applink.net
Texas Rehabilitation Commission, Associate Commissioner for Buyer Support Services, Leeda Laykasek	4900 N. Lamar 78751-2316	(512) 424-4063	Leeda.laykasek@Rehab.state.tx.us
Council on Occupational Education, Dr. Harry L. Bowman	41 Perimeter Center East, NE, Suite 640 Atlanta GA 30346	(800) 917-2081 FAX: (770) 396-3790	Bowmanh@council.org
U. S. Department of Education, Robert Dean	Department of Education Dallas TX	(214) 880-3066 FAX: (214) 880-2462	Samuel.Dean@Ed.gov
Texas Workforce Commission, Luis M. Macias	101 E. 15th Street Austin, TX 78778-0001	(512) 463-2222	

INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS (that serve as an information clearinghouse or regularly interact with the agency)			
Group or Association Name/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
National Association of Barber Boards of America, Charles Kirkpatrick	2708 Pine Street Arkadelphia, AR 71923	(501) 682-2806 FAX: (501) 682-5073	
LIAISONS AT OTHER STATE AGENCIES (with which the agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)			
Agency Name/Relationship/ Contact Person	Address	Telephone & Fax Numbers	E-mail Address
Office of the Attorney General, Assistant Attorney General, Joseph Pitner, Deputy Chief, Administrative Law Division	209 W. 14th Street Austin, TX 78701	475-4911 FAX: 320-0167	Joseph.pitner@ Oag.state.tx.us
Legislative Budget Board, Analyst, F. James Charney	1501 N. Congress Ave., 5th Floor Austin, TX 78701	463-1200 FAX: 475-2902	Jimmy.charney@ Lbb.state.tx.us
Office of the Governor, Research Assistant, Elizabeth Gonzalez	P. O. Box 12428 Austin, TX 78711	463-5157 FAX: 463-1975	Lgonzalez@ governor.state. Tx.us
Office of the Governor, Policy Director, Logan Spence	P. O. Box 12428 Austin, TX 78711	463-2198 FAX: 463-1975	Lspence@ Governor.state. Tx.us
Texas Cosmetology Commission, Executive Director, Antoinette Humphrey	5717 Balcones Drive Austin, TX 78731	380-7600 FAX: 454-0339	Ahumphrey@ Txcc.state.tx. us

VIII. 78th Legislative Session Chart

Fill in the chart below or attach information if it is already available in an agency-developed format. In addition to summarizing the key provisions, please provide the intent of the legislation. For example, if a bill establishes a new regulatory program, please explain why the new program is necessary (e.g., to address specific health and safety concerns, or to meet federal mandates). For bills that did not pass, please briefly explain the issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). See Exhibit 18 Example or [click here to link directly to the example](#).

(Texas State Board of Barber Examiners) Exhibit 18: 78th Legislative Session Chart		
Legislation Enacted - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent
SB1152	Shapleigh	The initial license for a barber, barber technician, and manicurist and the initial and renewal permit for a barbershop, manicurist shop, barber booth rental, and manicurist booth rental must be available through TexasOnline; a subscription fee, payable to TexasOnline, will be assessed against each licensee for the initial license and against each individual for his/her initial and renewal barbershop permit, manicurist shop permit, barber booth rental, and manicurist booth rental.
HB660	Allen	36 regulatory and licensing agencies (including the TSBBE) may obtain criminal history from the Department of Public Safety on all license holders and applicants.
SB279	Chisum	Changes composition of certain state agency governing bodies with an even number of members to comply with changes made to Section 31a, Article XVI, Texas Consitution; changes number of TSBBE's public membership from 2 to 3.

Legislation Not Passed - 78th Legislative Session		
Bill Number	Author	Summary of Key Provisions/Intent/Reason the Bill did not Pass
HB1403	West	Creates the Texas Commission on Barber and Cosmetology and abolishes the TSBBE and TxCC
HB1386	Hamric	The Texas Department of Licensing and Regulation (TDLR) shall manage and oversee a contract with a private vendor to design and implement the technology for a central customer service center to administer occupational license transactions for 26 regulatory agencies; payments to the vendor must be based on cost reductions from efficiencies and employee reductions.
SB622	Armbrister	Identical to HB1386
HB3001	Swinford	Reorganizes and consolidates state governmental functions and entities; transfers powers and duties of the TSBBE, TxCC, and Professional Land Surveying to TDLR.
SB1354	Ellis	Abolishes the TSBBE, TxCC, and Professional Land Surveying Board; transfers their functions to TDLR.
HB2	Swinford	Consolidates state governmental functions and entities; transfer powers and duties of the TSBBE, TxCC, and Professional Land Surveying to TDLR.
SB1952	Ellis	Transfers all functions and activities of various occupational licensing and regulatory agencies (e.g., TSBBE, TxCC, Plumbing Examiners, Professional Land Surveying, Structural Pest Control Board) to TDLR.
SB1193	Carona	The TSBBE's bill: changes regulations of the barber and related Occupations, barberships and specialty shops, and barber schools; Provides a criminal penalty.

IX. Policy Issues

The following four issues regarding the TSBBE were laid out before the 78th Texas Legislature in the various bills cited in **VIII. Legislative Session Chart**:

- [1] Centralize Customer Services for Licensing Agencies at the Texas Department of Licensing and Regulation (TDLR)
- [2] Consolidate various occupational licensing and regulatory agencies (including the TSBBE) with TDLR.
- [3] Merge the TSBBE with the Texas Cosmetology Commission (TxCC)
- [4] Amend the Barber Law (Texas Occupations Code, Chapter 1601, Barbers) to remove certain statutory barriers that limit the Agency's ability to get the job done, meet the needs of its clients, and achieve Agency goals.

[1] A. Brief Description of Issue
--

HB1386 (Hamric) and SB622 (Armbrister), pursuant to the Comptroller's Recommendation #GG-6 (Centralize Customer Services for Licensing Agencies - January 2003), provided that the Texas Department of Licensing and Regulation (TDLR) shall manage and oversee a contract with a private vendor to design and implement the technology for a central customer service center to administer occupational license transactions for 26 regulatory agencies; payments to the vendor were to be based on cost reductions from efficiencies and employee reductions.

B. Discussion

According to the Recommendation, the benefit of such a consolidation would be efficient and cost-effective customer service. At the time the Recommendation was published, TDLR regulated 17,125 licensees. The 26 agencies that were to be added to TDLR had 750,090 licensees. The TSBBE was one of those agencies.

A private vendor would establish an interactive voice response system and a web site for online information about licensing requirements. Telephone staff also would be available to answer questions; if those individuals could not answer the questions, the callers would be forwarded to "subject-matter experts."

The TSBBE already has three "subject-matter experts" who provide assistance and answer substantive and non-substantive questions from approximately 17,500 licensees. The TSBBE has a web site with its forms, documents, links to *TexasOnline*, rules, law, et cetera. In effect, the TSBBE already is an effective customer-service center for its licensees.

Furthermore, the TSBBE provides these services efficiently. For example, most of the TSBBE's employees are paid below midpoint of state salary ranges and the average salary is below the Article VIII average and statewide average (**II. History and Major Events, Impact of State Funding, Salaries**). This efficiency would be lost because the proposed salaries for the customer-service center cited in the Recommendation would be approximately \$10,000 higher than the salaries paid to the customer service-staff at the TSBBE.

Furthermore, customer service would be vitiated because potentially 750,090 licensees would be calling one state agency as opposed to their respective licensing agencies.

C. Possible Solutions and Impact

Allow the TSBBE to remain distinct and focused on serving the particular industry it was created to regulate.

[2] A. Brief Description of Issue

HB2 (Swinford), HB3001 (Swinford), and SB1354 (Ellis) proposed transferring the powers and duties of the TSBBE, TxCC, and Professional Land Surveying to TDLR.

B. Discussion

There would be no significant savings nor costs because, based upon the following thoughts found in TDLR's Strategic Plan and Workforce Plan, all of TSBBE's staff would be needed at TDLR to perform the tasks already performed by the TSBBE:

TDLR does not have the capacity to absorb new programs without additional funds and staff for processing applications, investigating complaints, processing mail, human resources, accounting, inspections, licensing, examinations.

By 2007, 26 FTEs (managers, inspectors, investigators, program specialists) will retire from TDLR.

The E.O. Thompson building where TDLR is housed is at capacity.

Furthermore, TDLR does not give practical examinations for the 20 occupations it regulates whereas the TSBBE gives a practical examination every month (81 - 120 examinees at each examination) at the Frank Joseph Building.

Finally, and perhaps most troubling, the TSBBE Board members would be advisory to the TDLR Commission thereby compromising, if not jeopardizing, oversight of the Barber industry by barber professionals.

C. Possible Solutions and Impact

Allow the TSBBE to remain distinct and focused on serving the particular industry it was created to regulate.

[3] A. Brief Description of Issue
--

HB1403 (West) proposed creation of the Texas Commission on Barbering and Cosmetology and the abolition of the TSBBE and TxCC.

B. Discussion

Identified below are several arguments (with clarifying details) against merging/consolidating the TSBBE with the TxCC.

A merger/consolidation does not improve efficiencies

[1] The TSBBE already is efficient

- lower salaries than state average
- lower travel reimbursements
- returned approximately \$185,000 to General Revenue (FY03) including \$46,217 in fines collected from individuals who violated the Barber Law and the TSBBE's rules and regulations

[2] Given 6% reduction (FY04 and FY05), any additional savings of a merger would be offset by losses in efficiency and effectiveness precipitated by, for example, a decrease in frequency of inspections with these concomitant outcomes:

- fewer renewals
- fewer complaints investigated
- fewer complaints resolved
- increase in the average time for complaint resolution
- fewer violations written
- fewer SOAH cases resolved
- increased risk to public health
- decreased revenue through license/permits renewals and fines

[3] A larger state agency would be contrary to the efficiencies sought by the leadership during the 78th Texas Legislature.

A merger/consolidation would bring together dissimilar professions

[1] Although the professions provide similar services, cutting and styling human hair, they are separate, distinct, and unique professions. For example, the Department of Labor's [Dictionary of Occupational Titles](http://www.oalj.dol.gov/public/dot/refrnc/dot03a.htm), at www.oalj.dol.gov/public/dot/refrnc/dot03a.htm, identifies two distinct occupations:

330.371-010 BARBER (personal ser.) alternate titles: haircutter; tonsorial artist

332.271-010 COSMETOLOGIST (personal ser.) alternate titles: beautician; beauty culturist; beauty operator; cosmetician

[2] The Texas Rehabilitation Commission (TRC) recognizes these two occupational titles as separate. The TRC also pays student-training expenses (approximately \$167,000 per month) for individuals with mental or physical disabilities at 29 approved barber schools/colleges. One primary objective of TRC's financial support is to aid disabled citizens in their endeavors to obtain marketable job skills and personal independence through employment.

[3] The U.S. Department of Education's Classification of Instructional Program Codes, Codes 12.0402 and 12.0403, recognizes the following two occupations as qualifying for instructional programs status:

Barber/Hairstylist

Cosmetologist

According to the Department of Education's guidelines, training in these instructional programs prepares students for gainful employment in recognized occupations, 34 C.F.R. §600.5 (2002). Students enrolled in these training programs are eligible to participate in Federal Student Aid programs at state approved and accredited educational institutions. Eleven of the 29 barber schools and colleges in Texas are accredited by the national Commission on Occupational Education and are eligible for Title IV funds.

[4] Distinctions between barbering and cosmetology are based on several objective factors. In Texas, the cosmetology instructional curriculum is set by the TxCC. The art of beautification of hair and nails requires the use of chemical treatments, color applications, and styling long hair, typically worn by females. The cosmetology curriculum has a broad base (e.g., waxing, hair color, color correction, hair extensions, perms, haircuts, makeup, roller sets). Cosmetology students major in these areas and minor in men's haircuts and hairstyles and the tools required to practice barbering. Generally, cosmetology schools do not teach the use of electric clippers or razors which are fundamental barbering tools.

The barber instructional curriculum is set by the Barber Board. The barber curriculum is narrowly focused on men's haircuts, hairstyling, and shaving. The art of barbering requires the detailed ability to work in clipper cutting, tapering, shingling, trimming long eyebrows, and shaving the neck and face. Barber students major in haircutting and minor in chemical treatments, color applications, and styling long hair. Of the 1,500-hour barber school curriculum, more than 800 hours are dedicated to haircutting.

[5] In Texas, the average tuition to receive barber instruction and training is \$6,000. There are licensed cosmetologists who have enrolled in barber school in order to learn barbering, indicative of the differences in the two trades.

Historically, barbers prefer their own regulatory agency

[1] Barbers have argued they pay enough fees to cover the costs of an independent agency to regulate the profession

[2] Barbers have been vocal and demonstrative to keep an independent agency that is focused and responsive on barber issues

A merger/consolidation would make the barber industry extinct

[1] Cosmetology numbers are significantly greater than TSBBE's

TxCC (March 2003 - last date the data were available to TSBBE): Individuals (183,926); salons (23,609); schools (338); independent contractors (40,563); students (19,268)

TSBBE (August 2003): Individuals (17,897); facilities [5,961: barbershops (3,232); manicurist shops (187); dual shops (2,513)]; schools (29); independent contractors/booth rentals (5,648); students (933)

[2] These greater numbers precipitate a concern for --

non-responsiveness to barber issues

loss of autonomy

domination by market competitors

Barbering promotes self-sufficiency, rehabilitation, ethnic diversity

[1] Individuals on public assistance [TRC, Texas Workforce Commission, Federal Government (Title IV)] become self-sufficient

[2] Former inmates become productive members of society

[3] Ethnic diversity is promoted as shown by the following percentages at barber schools/colleges:

African-American (75%)

White (5%)

Other (2%)

C. Possible Solutions and Impact

Allow the TSBBE to remain distinct and focused on serving the particular industry it was created to regulate.

[4] A. Brief Description of Issue

Prior to the 78th Texas Legislature, the TSBBE held six meetings during which proposed amendments to the Barber Law (Texas Occupations Code, Chapter 1601, Barbers) were presented to the public for discussion. Ultimately, those proposed amendments became SB1193 (Carona). A synopsis is laid out in **B. Discussion**.

B. Discussion

1601.051: provide that one member of the Board must be a resident of a county with a population of **75,000 or less** rather than **25,000 or less**

1601.257: provide that an applicant for a manicurist license must be at least **seventeen (rather than sixteen)** years of age (parallels TxCC's requirement)

1601.264; 1601.402: **delete the health certificate** stating that an individual does not have an infectious or contagious disease to obtain a new license or renew a license (**considered antiquated by TDH; facilitate license renewal through TexasOnline**)

1601.301: **consolidate** the following sections into one section [1601.301. Permit Required]:

1601.301 Permit Required	1601.302 Temporary Barbershop Permit
1601.310 Relocation of Specialty Shop	1601.503 Notification of Change of Location

1601.303: provide that a **barbershop owner's name** must also appear on a barbershop permit if a barber is not the owner of the barbershop; **delete** the requirement that a barber must have practiced barbering for at least **12 months** before his/her name can appear on a barbershop permit

1601.406: **delete archaic requirement** that barbershop and specialty shop permits expire July 1 of each odd-numbered year; they now expire two years from date of issue

1601.409: provide for **voluntary continuing education**

1601.501: **consolidate** the following sections into one section [1601.501. Display of Barbershop or Specialty Shop Permit]:

1601.311 Display of Specialty Shop Permit	1601.501 Display of Barbershop Permit
---	---------------------------------------

1601.506: provide that the Board shall **adopt reasonable rules on cleanliness** for all licensees and permit holders rather than maintain detailed cleanliness requirements in the TOC

1601.560: provide that, in addition to the teacher required by Section 1601.355(b), a barber school that provides training leading to issuance of a Class A barber certificate shall have at least **one qualified instructor**, holding a Class A certificate, **for every 25 (rather than 20)** students on premises

1601.651(a)(2): provide that the OAG may file an action for an injunction or other proceeding to **enjoin a barber shop owner**, in addition to a barber or barber school, from operating in violation of the Barber Law

1601.651(b): provide that **a barber shop owner**, in addition to a barber or barber school that operates in violation of the Barber Law, **is liable to the state for a civil penalty in the amount of \$25 a day** for each day a violation occurs

1601.652: provide that **a person commits an offense (misdemeanor)** if the person violates the Barber Law punishable by

a fine of *not less than \$100 or more than \$300* (re-instate 1601.652 Offense; Penalty repealed by the 77th Texas Legislature)

1601.705: provide that the Board may take a *default judgment against respondents who fail to appear at scheduled hearings before the Executive Director*

Fee changes in various sections: delete the maximums for various fees and other fee changes *pursuant to the Board's authority* to set fees (**1601.155**) enacted by 76th Texas Legislature.

C. Possible Solutions and Impact

The TSBBE can do a better job in meeting the needs of its clients and achieving its goals if the amendments proposed in SB1193 are enacted in the 79th Texas Legislature, particularly the following:

Repeal 1601.264 and 1601.402: The TSBBE is the only Article VIII agency whose statute contains the health certificate. The Texas Department of Health states the health certificate requirement is antiquated and its repeal would not jeopardize the public health. However, the letter (Exhibit #1) goes on to say that improper disinfection of barber instruments such as scissors, et cetera, would pose a potential risk of bloodborne pathogen transmission from one patron to another. Such a statement from the Department of Health affirms that training in sanitation and sterilization, the proper use of tools, and routine inspections of barbershops are critical to the well-being of the public health. The repeal of the health certificate would facilitate barbers' use of *TexasOnline* and facilitate the TSBBE's achievement of two performance measures set forth in the appropriations bill:

	<u>2004</u>	<u>2005</u>
Percent of Licensees Who Renew Online	13%	18%
Percent of New Individual Licenses Issued Online	0%	10%

Amend 1601.303: This amendment would allow individuals who have just graduated from a barber college to open their own barberships without practicing for 12 months. This would be particularly helpful to those individuals who are from rural communities with few shops for individuals to practice for 12 months. The amendment also would provide that a violation of the barber law could be assessed against the class A barber and the barbershop owner if he were not a barber.

Amend 1601.651, add 1601.652, amend 1601.705: These changes would provide additional enforcement authority to the TSBBE.

X. Comments

None