

STATE PRESERVATION BOARD

Faye Rencher, Project Manager

Agency at a Glance

Created in 1983, the State Preservation Board (SPB) is responsible for preserving and maintaining the Capitol, General Land Office Building (now the Capitol Visitors Center), Capitol Visitors Parking Garage, and Governor's Mansion; and operating the Bob Bullock Texas State History Museum. The agency's responsibilities vary for each building under its care, but generally staff works to meet the daily needs of building occupants and visitors while still performing the following functions to support the agency's core preservation mission.

- Approve changes to the buildings involving construction, restoration, and repairs.
- Provide maintenance, housekeeping, and grounds keeping services.
- Provide curatorial and interpretive services for the Capitol Historical Artifact Collection.
- Conduct guided tours of the buildings, including educational tours for school children.
- Manage business enterprises to help fund agency operations, including gift shops, cafés and catering, theaters, and parking facilities.

Diverse responsibilities, and a unique governance structure, challenge the Board's current approach to overseeing the agency.

Summary

The State Preservation Board is unique in that it has successfully unified the typically separate and often competing interests of building and property management with historical preservation and curatorial expertise. The agency's governance and funding structures are also unique. The Board includes the Governor, Lieutenant Governor, and Speaker of the House of Representatives, and the majority of the agency's funding is made up of earned revenues held outside the Treasury. The Sunset Commission determined that while these unique aspects of the agency afford it the flexibility and agility with which to serve its immediate constituency, they also present certain challenges.

Because most of the agency's board members have other significant state responsibilities, the Board does not meet regularly to provide the level of direction and oversight typical of most other state agencies. SPB has also had to increasingly rely on its earned revenues, rather than general revenue, to fund its operations, indicating the need for a more formal, comprehensive

budgeting process. In addition, the roles and responsibilities for the management of the Bob Bullock Museum are not clearly defined and the aging Museum struggles to be self-sufficient, creating financial and operational risks to the State. The Sunset Commission's recommendations on the State Preservation Board, summarized in the following material, aim to position the agency and the Museum to operate successfully within their unique structures and funding limitations.

Issue 1

Texas Has a Continuing Need for the State Preservation Board, but More Regular, Formal Involvement of the Board Is Also Needed.

Texas continues to need the State Preservation Board to preserve, maintain, and manage the State's \$281 million investment in its key historic buildings and to serve the buildings' occupants and visitors. The agency is governed by a unique Board made up of some of the State's highest ranking and busiest leaders and as such, it rarely meets. Instead, the agency uses informal and less transparent means to obtain needed oversight and direction from the Board.

Recognizing the unique attributes and constraints of having the State's leadership on the Board, the Sunset Commission determined requiring more regular board meetings, but allowing certain members to designate a representative, would provide more direct oversight of agency operations, and still allow for needed flexibility in scheduling these meetings.

Recommendations

Change in Statute

1.1 Continue the State Preservation Board for 12 years.

This recommendation would continue the State Preservation Board as an independent agency.

1.2 Allow certain Board members to designate representatives to participate in State Preservation Board meetings.

This recommendation would allow Board members with the greatest need for scheduling flexibility — the Governor, Lieutenant Governor, and Speaker of the House of Representatives — to designate a representative to act on their behalf during board meetings, including the ability to vote. This recommendation would not require any of the Board members to name a designee, only that they would have that option. Board members would always have the ability to attend and vote in person.

1.3 Require the Board to meet at least twice per year.

This recommendation would require the Board to meet twice per year, and at other times at the call of the Governor and as provided by Board rule.

Management Action

1.4 The Board should resume oversight of SPB at a level typical of other agencies.

Under this recommendation, the Board should resume more regular involvement in and oversight of the agency, including:

- having the internal auditor report directly to the Board, instead of the executive director;

- annually reviewing and approving SPB's annual operating budget and work plan;
- reviewing and approving SPB's Legislative Appropriations Request and Strategic Plan; and
- developing and implementing policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the executive director and staff.

Issue 2

The State Preservation Board Lacks Certain Key Budgeting and Planning Tools Needed to Best Manage the Agency.

Since the majority of SPB's funding is held outside the Treasury, its budget is not subject to the same controls most state agencies receive through the appropriations process. Therefore, a clear and consistent budgeting process is critical to effectively plan for and manage agency finances, particularly as the Legislature is asking SPB to rely more on its earned revenues and less on state funding. However, SPB's budget does not include all of its revenues and expenditures, resulting in an incomplete picture of the agency and its operations. The agency also does not tie capital needs, funding, and decision making together to meet the most critical needs of the buildings it manages within limited resources.

Recommendations

Management Action

2.1 Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.

SPB should develop a formal, documented approach to capital improvement planning and budgeting that articulates needs across all the properties it manages, including estimated costs, justification, prioritization, and funding sources. The agency should use this information to create a five-year capital improvement plan, updated at least annually, and use the plan as the basis for an annual project schedule that includes all properties the agency manages. The Board should approve both the five-year plan and the annual schedule.

2.2 Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.

SPB should develop and maintain a comprehensive operating budget that incorporates all of its revenues and expenditures, including those from its funds held outside the Treasury. The operating budget should be presented as a single, summarized document and should be used in addition to the agency's more detailed, internal budget documents and spreadsheets.

2.3 SPB should conduct a regular, comprehensive assessment of the agency's enterprise functions to evaluate potential for optimizing revenue.

SPB should establish a process to evaluate its enterprise operations based on the overall goals of these operations, such as increasing sales, and the strategies needed to achieve them, such as future marketing campaigns. SPB should also identify specific performance measures to track progress, such as estimates of expected revenues and return on investment.

Issue 3

The Bob Bullock Texas State History Museum Needs Planning Tools and a Clear Management Structure to Best Ensure Its Success.

The roles and responsibilities for the management of the Museum are not clearly defined in statute or rule, which could hinder accreditation by the American Association of Museums. This accreditation requires a museum's governing entity to formally authorize full responsibility for museum operations to the museum director, and to ensure clarity of roles and responsibilities between the governing entity and staff.

The Museum is not required to produce certain planning and budgeting documents needed to provide direction, monitor, and evaluate the effectiveness and success of an organization. Without its own planning and reporting requirements, the Museum, SPB, and the Legislature do not have the information needed to best monitor and evaluate the Museum's operations, performance, and long-term success. In addition, the Board does not have a clear policy specifying the purpose and approved uses of the Museum Fund to help the Museum achieve greater financial stability.

Recommendations

Change in Statute

3.1 Establish the museum director position in statute.

To clarify responsibility for the management and operation of the Museum, this recommendation would statutorily require the executive director to employ a museum director.

Management Action

3.2 Direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director in the management of the Museum.

In adopting this policy, the Board should consider specifically delegating certain duties and responsibilities to the museum director, including Museum programming, budgeting, business operations, and staffing.

3.3 Direct the agency to develop a separate strategic plan and annual report for the Museum by January 2013, and continue to provide the Museum Fund Annual Report.

Under this recommendation, the agency should develop and regularly update a strategic plan to guide the mission, goals, and activities of the Museum. The agency should also produce an annual report on the Museum, which could include program accomplishments and future plans, a comprehensive budget, and performance measures.

The agency should develop and update both the strategic plan and annual report, to be submitted to the Board for review and approval each fiscal year, and should continue to produce the Museum Fund Annual Report.

3.4 Direct the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances by January 2013.

Under this recommendation, the Board should adopt a policy specifying the purpose and approved uses of the Museum Fund. The Board should consider requiring the Museum Fund to reach an operating

reserve of two months or approximately \$1 million, and that the Fund is used to cover unanticipated operating or capital costs, such as emergency repairs. The Board should also consider requiring expenditures from the Museum Fund be reimbursed as soon as funds become available to help the Museum achieve greater financial stability.

3.5 By January 2013, allow the museum director to create an advisory council to provide additional advice and expertise on Museum programming and operations.

The council could include persons with museum expertise, historians, academics, and others such as business and community members. The council should meet on an as-needed basis, and its composition should be determined by the museum director.

Issue 4

The State Preservation Board Benefits From the Support of Its Affiliated Nonprofit Organizations, but Additional Controls Are Needed.

The agency has developed partnerships with affiliated nonprofit organizations, such as the Texas State History Museum Foundation, to further SPB's mission and goals. Relationships between state agencies and closely affiliated nonprofit organizations can be beneficial to the state when both partners adhere to established best practices, but such partnerships also entail inherent risks.

Because of the close relationships of affiliated nonprofits with state agencies under Sunset review over the years, the Sunset Commission has identified standards of conduct and best practices for such organizations. The Board's rules governing the agency's relationships with its affiliated nonprofits include some, but not all, of the best practices identified by Sunset staff.

Recommendation

Management Action

4.1 The Board should modify its proposed rules governing SPB's relationships with its affiliated nonprofit organizations to specifically address the following standards and ensure adherence to accepted best practices.

The rules should include the following components.

- Prohibit SPB employees from directly spending or controlling affiliated nonprofits' funds, and clarify funds raised by the agency's affiliated nonprofit organizations be used only for SPB-directed priorities and legitimate operating expenses of the nonprofit organization.
- Prohibit SPB employees from accepting a salary supplement, bonus, or other direct benefit from affiliated nonprofit organizations. Affiliated nonprofits may provide financial or other benefits to SPB for discretionary award to employees, but SPB would make the final decision on awarding its employees, not the affiliated nonprofit.
- Require the nonprofits to adopt criteria and guidelines for seeking corporate sponsorships to ensure any sponsorship serves the public interest and are aligned with SPB's mission.
- Require, at a minimum, that affiliated nonprofit organizations provide SPB with an annual report and an annual audit.

- Require SPB and its affiliated nonprofits to review their relationships at regular intervals, including consideration of the purpose and continued need for the affiliated nonprofit organization, and any changes needed.

Issue 5

Anticipated Changes in SPB's Workforce Could Leave the Agency Vulnerable to a Significant Loss of Institutional Knowledge Critical to Its Operations.

The State Preservation Board balances the competing needs of preserving the most historically significant assets in Texas with their active use. As such, the agency employs a specialized workforce that understands the history, intricacies, and special needs of its buildings. However, in the near future, SPB will likely experience a significant loss of institutional knowledge and expertise as key management staff become eligible to retire. As SPB has relied on the institutional knowledge retained by its long-tenured staff, the agency has not fully documented important staff policies and procedures.

Recommendations

Management Action

5.1 The State Preservation Board should develop and implement a succession plan to prepare for impending retirements and workforce changes.

The agency should develop a succession plan to prepare for both anticipated and unanticipated departures of key staff, including identifying positions critical to SPB's operations and establishing a comprehensive strategy for preparing new staff to assume these responsibilities. Also, SPB should identify critical vacant positions and positions at risk of becoming vacant in the near future, and provide training and development opportunities to employees eligible to move into these positions.

5.2 Direct SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically.

SPB should capture institutional knowledge regarding the agency's key duties and procedures, and use this information to develop and update employee manuals and other materials to reflect current job duties and procedures for all its programs. The agency should make this information available to all staff electronically, such as through the agency's intranet site.

5.3 Direct SPB to develop and implement an agencywide staff training and development policy.

The agency should develop a policy that promotes agencywide access to training, including setting division training budgets, as funding allows, and identifying training needs through the employee evaluation process.

Fiscal Implication Summary

These recommendations would not have a fiscal impact to the State.

PUBLIC UTILITY COMMISSION OF TEXAS

Karl Spock, Project Manager

Agency at a Glance

The Public Utility Commission (PUC) oversees electric and telecommunications companies in Texas. The Legislature created PUC in 1975 to regulate rates and services of monopoly utilities as a substitute for competition. Since then, legislative changes restructuring and deregulating major portions of electric and telecommunications markets have modified PUC's focus. PUC carries out the following key duties.

- Oversees the rates and services of transmission and distribution utilities, certification of retail electric providers, and registration of power generation companies in areas of the state open to electric competition.
- Oversees the operations of the Electric Reliability Council of Texas (ERCOT).
- Regulates the rates, services, and service quality of electric utilities that continue to operate as monopolies in areas of the state not open to electric competition.
- Administers renewable energy and energy efficiency programs.
- Regulates or oversees in varying degrees telecommunications providers.
- Administers several assistance programs for low-income electric or telephone customers.

*The Sunset Commission
concluded that most of its
previous recommendations
remain appropriate.*

Summary

This special purpose review of PUC follows up on the full Sunset review of the agency conducted in the 2010–2011 biennium. At that time, the Sunset Commission adopted and forwarded recommendations related to PUC to the 82nd Legislature that would have provided the agency with additional tools to oversee an increasingly competitive electric market to better protect consumers; required additional PUC oversight of ERCOT to promote grid reliability; and transferred water and sewer rate-related regulation from the Texas Commission on Environmental Quality (TCEQ) to PUC to take advantage of PUC's ratemaking expertise and better focus TCEQ on its complex environmental mission.

Senate Bill 661 included these Sunset Commission recommendations, but the bill did not pass. The Legislature continued PUC for two years in a separate

bill and focused this current Sunset review on the appropriateness of PUC-related recommendations adopted by the Sunset Commission last biennium.

Based on this reevaluation, the Sunset Commission concluded that most of its previous recommendations remain appropriate, and that statutory direction to ensure their implementation is still needed. The following material summarizes PUC-related recommendations from last biennium that continue to be appropriate for consideration, and adds an evaluation of agency reporting requirements that the Legislature now requires of all Sunset reviews.

Issue 1

PUC Lacks Regulatory Tools Needed to Provide Effective Oversight and Prevent Harm to the Public.

Since 1995, the Legislature has enacted laws restructuring electric and telecommunications industries from traditional rate regulated monopoly markets to markets open to competition. In these restructured markets, PUC relies on licensing-related functions to achieve oversight instead of rate regulation. These functions include granting businesses operating authority, resolving consumer complaints, and taking enforcement actions against violators.

PUC still lacks a degree of regulatory authority necessary for effective oversight in these restructured markets. Unlike various major regulatory agencies such as the Texas Department of Insurance, PUC lacks authority to immediately halt actions that are of imminent danger to the public. Also, the effectiveness of PUC's limited oversight of Competitive Local Exchange Carriers is reduced because the agency's list of these providers is inaccurate, primarily because no renewal process exists to ensure timely tracking and updates of their active status.

Recommendations

Change in Statute

1.1 In limited circumstances, authorize PUC to issue emergency cease-and-desist orders to electric industry participants.

PUC could use this authority when an electric industry participant's actions would harm the reliability of the electric grid; are hazardous or create an immediate danger to public safety; or could reasonably be expected to cause immediate harm to consumers in situations in which monetary compensation would be inadequate. The recommendation would provide for expedited notice and hearings when issuing cease-and-desist orders. This recommendation also would authorize PUC to assess administrative penalties against companies that violate an emergency cease-and-desist order, and allow companies to appeal the orders and penalties through the normal enforcement process.

1.2 Require PUC to provide for the renewal of certificates for Competitive Local Exchange Carriers.

Statute would require Competitive Local Exchange Carriers to renew their certifications by January 1, 2015, so that PUC could develop an accurate list of carriers that continue to be active and subject to its limited oversight. To satisfy the renewal requirement, the carrier would submit the carrier's name, address, and annual report that are currently required. Statute would authorize PUC to adopt rules establishing the process, including determining the time periods for the renewal of registrations and

providing a grace period for active carriers who fail to timely file the required information. Carriers that fail to meet the filing requirement and grace period would need to satisfy all requirements of the original authorization issued by PUC to be reinstated.

Issue 2

Statutory Changes Are Needed to Ensure the Public Utility Commission's Improved Processes of Overseeing the Electric Reliability Council of Texas Continue in the Future.

ERCOT total spending authorization for 2012 was \$177.1 million from statutorily permitted charges on electricity. With PUC's oversight, the organization uses its funds to ensure the reliable distribution of electricity and coordinate the operation of Texas' competitive electric market. In 2011, the Sunset Commission found that PUC's oversight of ERCOT needed to be strengthened, given the magnitude of funds expended and past issues, including management of debt. Although the Sunset bill failed to pass, PUC and ERCOT have worked together to implement many of the recommended changes, including PUC approval of ERCOT's annual budget and debt financing. However, these recommendations need statutory action to provide needed safeguards and to prevent backsliding.

Recommendations

Change in Statute

2.1 Require PUC to exercise additional oversight authority of the Electric Reliability Council of Texas by:

- review and approval of annual budgets for ERCOT on a timeframe determined by PUC;
- prior review and approval of all debt financing, except as negotiated by PUC and ERCOT; and
- annual review of PUC-approved performance measures tracking ERCOT's operations.

Statute would provide PUC with the explicit authority to approve, disapprove, or modify each budget item. The reviews could occur each year or biennially, but the budgets themselves would be annual, as are the budgets of state agencies. PUC would solicit and actively encourage public participation in budget deliberations according to a process it develops. These reviews would be exempt by statute from requirements to conduct proceedings as a contested case under the Administrative Procedure Act, although PUC could still do so as it determines necessary.

By rule, PUC could establish reasonable dates for submission of all necessary budget-related documents, and the necessary level of detail contained within the documents. Statute also would require PUC to review and approve each request for use of debt funding or refinancing of existing debt, except as mutually agreed by PUC and ERCOT.

2.2 Require the System Administration Fee to vary when needed to match revenues to the budget approved by PUC.

PUC would approve the appropriate level of funding for ERCOT's annual budget, instead of the current procedure of approving the fee needed to raise a particular amount of funding. ERCOT would have the authority to vary the System Administration Fee to help meet budgeted requirements. ERCOT would be expected to closely match funding sources to the budget so that budgetary years

would not end with extra or inadequate funds, and would report to PUC as that agency requires on the matchup between funding and budget. PUC would provide guidelines on the range of variation that would be allowed, and would approve the request for a fee change, taking into account the timing of the change and its effect on market participants and consumers. The fee setting process would not require a contested case under the Administrative Procedure Act.

Issue 3

The State Could Benefit From Transferring Regulatory Functions Related to Water and Wastewater Utilities to the Public Utility Commission.

In 2011, the Sunset Commission recommended transferring the regulation of water and wastewater utilities from TCEQ to PUC, but Sunset legislation implementing this transfer did not pass. The Sunset Commission's core recommendations on this issue are still appropriate, allowing TCEQ to focus on its basic mission of environmental regulation, taking advantage of PUC's expertise in utility ratemaking and providing consumer assistance.

Recommendations

Change in Statute

3.1 Transfer responsibility for regulating water and wastewater rates and services from the Texas Commission on Environmental Quality to PUC.

This recommendation would transfer TCEQ's existing authority for water and wastewater utilities regarding retail and wholesale rates; water and wastewater utility submetering; certificates of convenience and necessity; certain financial, managerial, and technical practices; reporting requirements; and consumer assistance and complaints to PUC. TCEQ would continue to have responsibility for ensuring that utilities meet drinking water standards, sewage treatment requirements, and review of investor owned utility drought contingency plans. The State Office of Administrative Hearings (SOAH) would continue to hear cases related to water and sewer regulation as it does now.

This recommendation requires the agencies to complete the transfer by September 1, 2014. Both agencies would establish a transition team with high-level employees to plan for the sharing of information and the transfer of ongoing cases, property, personnel, powers, and duties. The recommendation would also require the agencies to develop a memorandum of understanding by August 1, 2014 to implement these plans.

3.2 Provide for the Office of Public Utility Counsel to represent residential and small commercial interests relating to water and wastewater utilities, contingent on the transfer to PUC.

This recommendation would provide for the Office of Public Utility Counsel (OPUC) to represent the interests of residential and small commercial consumers in water and wastewater utility matters under the same authority OPUC has for electric and telecommunications matters. The Office of Public Interest Counsel at TCEQ would not be involved in water and wastewater utility matters at PUC. This recommendation is contingent on the transfer of water and wastewater regulation from TCEQ to PUC.

Change in Appropriations

3.3 By rider to the General Appropriations Act, transfer funds from the Texas Commission on Environmental Quality to PUC, the Office of Public Utility Counsel, and the State Office of Administrative Hearings for the regulation of water and sewer utilities.

The Legislature would appropriate funds to TCEQ from Water Resource Management Account #153 for the regulation of water and sewer utilities. TCEQ would then remit funding for utility regulation to PUC, OPUC, and SOAH based on the level of the legislative appropriation required by rider in the General Appropriations Act. TCEQ's existing rider transferring funds to SOAH for its contract for all hearings would be reduced by the same amount as the transfer for water utility matters to properly account for SOAH costs. The transfer of funds could occur by interagency contract, and TCEQ would not be responsible for the use of the funds.

Change in Statute

3.4 Require PUC to make a comparative analysis of statutory ratemaking provisions under its authority, contingent on any transfers, to determine opportunities for standardization.

PUC would report to the Legislature any recommendations about any identified opportunities to standardize these ratemaking requirements in time for consideration in the 2015 legislative session.

3.5 Require PUC and the Office of Public Utility Counsel to analyze their staffing requirements, contingent on any transfers, and report potential changes in staffing needs to the Legislative Budget Board and the Governor's budget office.

This recommendation would require a one-time report to the Legislative Budget Board and the Governor's budget office at the same time PUC and OPUC submit their Legislative Appropriations Requests for the 2016–2017 biennium. The report would detail any staffing changes, including reductions or increases that the agencies recommend. This recommendation gives PUC and OPUC the opportunity during the transition planning process to gain more knowledge about the programs to be transferred and the staffing required to meet program needs.

Issue 4

PUC Statutes Contain Unnecessary Reporting Requirements.

The Sunset Act establishes a process for state agencies to provide information to the Sunset Commission about reporting requirements imposed on them by law and requires the Sunset Commission, in conducting reviews of state agencies, to consider if each reporting requirement needs to be continued or abolished.

The Sunset Commission found that statute requires PUC to compile separate reports relating to customer awareness for telecommunications markets. One report focuses exclusively on telecommunications markets, while the other applies more broadly to both electric and telecommunications utilities, rendering the first report unnecessary.

In addition, statute requires PUC to report on the sufficiency of funds in the System Benefit Fund to the Electric Utility Restructuring Legislative Oversight Committee. This committee was abolished in 2011, and other provisions requiring PUC to report quarterly on the System Benefit Fund to the Governor and the Legislative Budget Board more appropriately serve the intended purpose of this report, rendering it unnecessary.

Recommendation

Change in Statute

4.1 Abolish PUC's report relating to customer awareness for telecommunications markets and the System Benefit Fund report to the Electric Utility Restructuring Legislative Oversight Committee.

This recommendation would not affect PUC's separate reporting requirement for customer awareness that relates to both telecommunications and electric markets, or for quarterly reports to the Governor and LBB regarding the System Benefit Fund.

Issue 5

The State Has a Continuing Need for the Public Utility Commission.

Regulatory oversight is still needed for Texas' essential electric and telecommunications industries. The State needs to regulate remaining electric and telecommunications monopoly utilities to ensure just and reasonable rates and high quality service. In addition, the State still needs to oversee the competitive aspects of the electric and telecommunications markets because of their complexity and the potential for abuse. PUC continues to be the proper agency to carry out this regulation. As in the past, continuation of PUC should be aligned with the review of the OPUC because of the two agencies' interconnected missions.

In the last decade, PUC Commissioners have come to play an increasingly significant role in overseeing the operations of ERCOT. Statutory conflict-of-interest provisions applied to Commissioners have not been updated to reflect this close oversight.

Recommendations

Change in Statute

5.1 Continue the Public Utility Commission for 10 years.

This recommendation would continue PUC until 2023, a date that keeps the reviews of PUC and OPUC aligned.

5.2 Prohibit PUC Commissioners from being employed by the Electric Reliability Council of Texas for two years after leaving PUC.

Current post-employment restrictions prohibit a PUC Commissioner from employment with a public utility in the Commissioner's responsibility for two years after leaving the agency. This recommendation extends the provision to also prohibit employment with ERCOT for two years.

Fiscal Implication Summary

These recommendations would not have a net fiscal impact to the State, but one issue would have cost-neutral implications, as summarized below.

Issue 3 — Transferring the regulation of water and sewer utilities from TCEQ to PUC is intended to be revenue and cost neutral initially. Future savings from regulatory standardization could occur, but could not be estimated. Provisions would require TCEQ to transfer 21 full time equivalent employees and annual appropriations of about \$1,695,000 from the Water Resource Management Account as follows:

- PUC, 20 employees and \$1,430,000;
- OPUC, one employee and \$81,000; and
- SOAH, \$184,000.

RAILROAD COMMISSION OF TEXAS

Joseph Reed, Project Manager

Agency at a Glance

The Railroad Commission of Texas serves as the State's primary regulator of the oil and gas industry. The Commission's mission is to ensure efficient production, safe transportation, and fair access to the state's energy resources, with minimal effects to the environment. To fulfill its mission, the Commission:

- oversees all aspects of oil and natural gas production, including permitting, monitoring, and inspecting oil and natural gas operations;
- permits, monitors, and inspects surface coal and uranium exploration, mining, and reclamation;
- inspects intrastate pipelines to ensure the safety of the public and the environment;
- oversees gas utility rates and ensures compliance with rates and tax regulations; and
- promotes the use of propane and licenses all propane distributors.

Summary

Despite its misleading name, the Railroad Commission regulates the state's oil and gas industry and has nothing to do with railroads. The clarity of its name matters as the Commission's job takes center stage in overseeing an unprecedented expansion of oil and natural gas drilling in the state. While clearly beneficial to Texas' economy, questions have been raised about the impact of this rapid growth on public safety, groundwater, and local roads and infrastructure. With these challenges in mind, the Sunset Commission concluded having a transparent and objective regulator is more important now than ever.

With the recent boom in production, having a transparent and objective regulator is more important now than ever.

Having three statewide-elected Commissioners also raises questions regarding the Commissioner's regulatory role versus their need to solicit campaign funds. With campaigns requiring millions of dollars and an increasing majority of these funds coming from the regulated community, the public needs assurance that the Commission's regulatory decisions are made in the public's interest. The Sunset Commission adopted several recommendations to address these concerns.

Ensuring the effective functioning of the Commission's recently expanded authority to self-fund its operations is also important to having a regulatory

agency that can keep pace with a growing industry. Based on Sunset's recommendation, the Legislature enabled the Commission to self-fund its Oil and Gas program in 2011. However, exponential growth in oil and gas production may soon put the Commission at risk of exceeding the \$20 million cap on this funding.

For pipeline safety, the Commission relies on a back-end fee paid by gas utility customers, with no front-end fee on pipeline operators to obtain a permit. This approach limits the Commission's ability to cover its costs to ensure appropriate public safety and oversight of a growing network of oil and gas pipelines.

Inadequate enforcement efforts, a concern raised in 2011 by the Sunset Commission, led to Railroad Commission initiatives to beef up its enforcement processes, with higher penalties for repeat and serious violations. While no clear-cut impact of these changes could be measured as yet, clear statutory direction would help to ensure these efforts continue. The following material summarizes each of the Sunset Commission's recommendations regarding the Railroad Commission, including several recommendations brought forward from the previous Sunset review in 2011.

Issue 1

Changing the Railroad Commission's Name and Addressing the Appearance of Conflicts of Interest Remain Critical to Ensuring Transparent and Effective Regulation.

The Railroad Commission's name does not reflect its duties, is unclear to the increasing number of people coming into contact with oil and gas production, and confuses voters about the duties of the three Commissioners the public elects on a statewide basis. The Sunset Commission also expressed concern about the potential for conflicts of interest when these elected individuals rely significantly on the industry they regulate for campaign contributions. Accepting contributions from parties with contested cases before the Commission poses a particularly egregious conflict. Another concern stems from Commissioners running for other offices while still serving on the Railroad Commission, diverting time and attention from their full-time jobs at the agency.

Recommendations

Change in Statute

1.1 Change the name of the Railroad Commission of Texas to the Texas Energy Resources Commission and continue the agency for 10 years.

This recommendation would continue the agency in the same capacity, renamed to ensure increased transparency for its primary role in overseeing energy resource exploration and production in Texas — eliminating confusion regarding any ongoing role with railroads, as it has none. Continuing the Commission for 10 years, rather than the standard 12-year period, would keep the agency's Sunset review aligned with other related agency reviews. As part of this recommendation, the Commission must develop a policy that encourages alternative dispute resolution and negotiated rulemaking, a standard Sunset Across-the-Board Recommendation.

1.2 Limit the solicitation and receipt of campaign contributions by a Commissioner or any candidates seeking the office to a year and a half timeframe around the election, rather than throughout the full six-year term.

Commissioners and any candidates seeking office as a Commissioner would be limited to soliciting and receiving campaign contributions in an 18 month period, starting 17 months before the election and ending one month after the election. This structure would provide adequate time for fund raising before the primary and general elections, while not allowing fundraising throughout the person's full six-year term. This timeframe also complies with existing prohibitions against accepting contributions during the time around a regular legislative session.

1.3 Prohibit a Commissioner from knowingly accepting contributions from a party with a contested case before the Commission.

This prohibition would apply to political committees affiliated with parties with a contested case before the Commission. This timeframe would extend from the date the hearing is set until the 30th day after the hearing ends. Commission staff would keep a running list of active contested cases, along with the parties to the case, to facilitate compliance with this requirement. Any contribution accepted by mistake must be returned.

1.4 Require the automatic resignation of a Commissioner that announces or becomes a candidate for another elected office.

This recommendation would include announcing or becoming a candidate for an elected office in any general, special, or primary election, other than a run for reelection to the Commission. Commissioners opting to run for other office have to resign from their full-time jobs at the agency. Commission members would be allowed to run for other offices in the last 18 months of their terms.

1.5 Require the Commission to develop a policy in rule to prohibit and ensure against any inadvertent ex-parte communications between hearing examiners and the Commissioners, and hearing examiners and technical staff who are parties to a contested case.

With in-house hearing examiners, the potential for inadvertent ex-parte communications is clear. Having a policy in rule to specifically prohibit such communications would help ensure against such biases impacting the fair and impartial role of the hearing examiner in overseeing and making recommendations in a contested case before the Commission.

Management Action

1.6 Direct the Commission to review its recusal policy, and revise as necessary to ensure Commissioners' awareness of, and compliance with, its requirements.

This recommendation would ensure the Commission revisits its standards, requirements, and procedures for recusal of a Commissioner. Clarifying when Commissioners must recuse themselves would help avoid any appearance of bias based on a personal or financial interest in an item up for decision.

Issue 2

Self-Funding of the Oil and Gas Program Is Working Well, But Would Benefit From Removal of the \$20 Million Cap on the Oil and Gas Regulation and Cleanup Fund.

Based on a Sunset recommendation, the 82nd Legislature authorized the Commission to levy surcharges to make its Oil and Gas program self-supporting, and decreased the amount of General Revenue the Commission receives to correspond with these increases in surcharges. While these changes to the Commission's funding sources are working well, the Oil and Gas Regulation and Cleanup Fund has outgrown the purpose of its \$20 million statutory cap. The Fund's cap also restricts the Commission from increasing statutorily authorized surcharges to adequately fund its oil and gas regulatory and cleanup operations. In addition, the Sunset Commission found that the Oil Field Cleanup Fund Advisory Committee has served its purpose and is no longer needed.

Recommendations

Change in Statute

2.1 Eliminate the cap on the Oil and Gas Regulation and Cleanup Fund.

Without a funding cap, the Commission would still only be allowed to spend funds at the level appropriated by the Legislature. To ensure transparency, the Commission would continue to produce its report on the Oil and Gas Regulation and Cleanup Fund to the Legislature and the Legislative Budget Board and to place this report on its website.

2.2 Abolish the Oil Field Cleanup Fund Advisory Committee.

This recommendation would repeal statute that establishes the Advisory Committee and the requirement for the Committee to provide information on the administration of the Oil Field Cleanup Fund. Instead, the Commission would provide this information through its report on the Oil and Gas Regulation and Cleanup Fund.

Issue 3

The Commission's Current Pipeline Safety Fee Does Not Cover the Program's Costs, Limiting the Agency's Ability to Ensure Public Safety Within a Growing Oil and Gas Industry.

Unlike the Railroad Commission's Oil and Gas program, the Commission's Pipeline Safety program is not entirely self-funded. Instead, the program is funded with a combination of pipeline safety fees, paid by natural gas utility customers, and General Revenue. Pipeline operators applying for a permit must provide information on the pipeline's location, mileage, and type of fluid transported, which the Commission uses to help ensure public safety. However, the Commission does not have authority to assess a fee for operating a pipeline, limiting the Commission's ability to ensure public safety and oversight of a growing industry.

Recommendations

Change in Statute

3.1 Authorize the Commission to create a pipeline permit fee to help support its Pipeline Safety program.

This new permit fee would provide a mechanism for the Commission, based on legislative appropriations, to generate additional revenue to better ensure public safety by hiring sufficient field inspectors, and to make information technology improvements to meet the needs of a growing oil and gas industry. The Commission would establish a methodology for developing the fee that reflects the time needed to perform the regulatory work associated with permitting pipelines; the impact of the permit fee on operators of all sizes; and other factors it considers important. The Commission would assess the fee based on the mileage of pipeline, the number of new and renewed permits, the number of amended permits, the number of pipeline systems, or any other factor that enables the Commission to equitably and efficiently recover its costs.

Change in Appropriations

3.2 Add language in the General Appropriations Act to further ensure that the Commission collects fee amounts to offset the costs of administering its Pipeline Safety program, including administration costs and benefits.

This recommendation would add new rider language in the Commission's appropriation pattern to require that the pipeline safety and pipeline permit fees, and any other miscellaneous revenue associated with the Pipeline Safety program cover, at a minimum, all program costs including direct and indirect administrative costs as well as benefits.

Issue 4

While Changes Have Begun, the Commission Continues to Need Statutory Direction to Improve Its Enforcement Processes.

One of the key findings of the Sunset Commission in 2011 was that the Railroad Commission's enforcement efforts were sorely lacking. Although recommendations to strengthen its enforcement failed to pass during the 2011 session, the Railroad Commission took action on its own to adopt penalty guidelines in rule, field test a more aggressive enforcement policy, and track and publish enforcement data on its website. However, the Sunset Commission concluded that statutory direction is still needed to ensure an ongoing focus on and full implementation of the Commission's new enforcement efforts, particularly in regards to going beyond simple compliance for serious violations and better deterrence of repeat violators.

Recommendations

Change in Statute

4.1 Require the Commission to develop an enforcement policy to guide staff in evaluating and ranking oil- and natural gas-related violations.

While the Commission is developing a new policy, this recommendation would ensure the agency includes specific processes for classifying violations based on the risk to public safety or the risk of pollution. The Commission would adopt standards to guide field staff on which type of violations to

appropriately dismiss and which to forward for enforcement. The Commission's standards must take into account an operator's previous violations and compliance history when determining whether to forward a violation.

4.2 Require the Commission to formally adopt penalty guidelines.

Even though the Commission has adopted penalty guidelines, placing this requirement in statute would help ensure the Commission maintains such guidelines in the future. The Commission would obtain public input when considering penalty amounts based on their risk and severity, making full use of higher penalties for more serious and repeat violations. In addition, the Commission must consider the number of times a violator has had a lease severed when determining a penalty amount.

Issue 5

The Commission's Promotion of Propane Is No Longer Necessary.

The Commission licenses businesses and individuals that supply, transport, or distribute propane to ensure its safe delivery to both commercial and residential users. In addition, the Commission promotes the use of propane as an alternative fuel, primarily through a rebate program that provides financial incentives to purchasers of propane appliances. The Commission funds the rebates by charging a delivery fee on the sale of propane gas.

The Sunset Commission found that the Railroad Commission's promotion of propane poses a conflict with its role as a regulator of propane. In addition, other state and national organizations promote propane, making the Railroad Commission's efforts duplicative and unnecessary, especially as, in the end, these extra marketing costs simply increase the cost of propane to the consumer.

Recommendation

Change in Statute

5.1 Eliminate the Commission's statutory authority to promote the use of propane and to charge a delivery fee for this purpose.

This recommendation would also dissolve the Alternative Fuels Research and Education Division dedicated account, which houses these propane funds. The Commission would continue to administer, until completed, its current propane-related grants and could continue to apply for such grants; provided that each grant covers the agency's associated administrative costs.

These changes would not impact the Commission's ongoing propane licensing activities and the Propane Alternative Fuels Advisory Committee would continue to develop ideas for training and testing of propane licensees. However, the Advisory Committee's statutory authority to advise the Commission on the promotion of propane would be eliminated.

Issue 6

Texas' Interstate Pipelines Lack Damage Prevention Oversight Needed to Ensure Public Protection.

Texas has more than 214,000 miles of pipeline, including both *intrastate* pipelines that run within the state and *interstate* pipelines that connect to other states. To help ensure public safety, Texas established

a damage prevention program to educate excavators and operators and take enforcement action when violations occur. However, the Commission only has statutory authority over intrastate pipelines. Thus, the Commission's damage prevention program does not extend to interstate lines, leaving a large and potentially dangerous regulatory gap.

Recommendation

Change in Statute

6.1 Authorize the Commission to enforce damage prevention requirements for interstate pipelines.

This recommendation authorizes the Commission to extend its damage prevention rules to interstate as well as intrastate pipelines, and to enforce violations affecting both types of pipelines. This approach extends administrative penalty authority to excavators and operators that violate damage prevention rules on interstate lines. The Commission would deposit these penalties in the General Revenue Fund, as it does with penalties from its intrastate pipeline damage prevention program.

Issue 7

The Commission's Mineral Pooling and Field Spacing Hearings Lack Certain Procedural Safeguards for Mineral Owners.

The Mineral Interest Pooling Act allows the Commission to pool mineral interests for a particular oil or natural gas well under certain circumstances. The Commission's process for informing mineral owners affected by an application for pooling uses outdated and highly technical language, resulting in potential confusion and a general lack of understanding of how to engage in contesting a permit. In addition, mineral owners seeking to protest a pooling permit do not have the option of requesting a local hearing on the matter.

Another concern is that applicants for field spacing exceptions may withdraw their permit at any time, without penalty, adding further burden to the mineral owner who may be forced to travel multiple times to Austin for hearings that never actually occur. Travelling to Austin is time consuming and costly, posing a potential disincentive for mineral owners or land owners wanting to participate in Commission hearings

Recommendations

Change in Statute

7.1 Authorize a party affected by forced pooling to request a hearing on the matter in the county where the proposed well will be drilled.

This recommendation authorizes a mineral owner or other party affected by forced pooling to request a local hearing, instead of having to attend a hearing at the Commission's central office in Austin. Further, the Commission could hold such hearings by telephone if both parties agree.

Management Action

7.2 Direct the Commission to develop a fee schedule for increased charges associated with re-filing previously withdrawn applications for forced pooling or field spacing exceptions.

The Commission should develop an increased fee for those applicants who re-file applications for forced pooling or field spacing exceptions, when they have previously submitted and withdrawn an application set for hearing without giving proper notice. As part of this recommendation, the Commission would develop the timeframe as well as the fee associated with re-filing an application under these circumstances.

7.3 Direct the Commission to study the use and development of telecommunication technology designed to increase the transparency of, and the public's participation in, agency hearing processes to ensure the rights of mineral owners and land owners in the state of Texas.

This recommendation directs the Commission to research and develop a plan to increase the use of technology for affected parties in the agency's hearing process.

Issue 8

The Railroad Commission's Key Reporting Requirement Continues to Serve a Useful Purpose.

The Texas Sunset Act directs the Sunset Commission to recommend the continuation or abolishment of each reporting requirement established in law for an agency under review. The Sunset Commission determined that the Railroad Commission addresses three of its four reporting requirements in one report, the *Report on the Oil and Gas Regulation and Cleanup Fund*, and this report should be continued. The fourth one, the *Report on the Oil Field Cleanup Fund Advisory Committee*, is no longer needed and should be eliminated, as is provided for in Recommendation 2.1.

Recommendation

Change in Statute

8.1 Continue requiring the Commission to submit its report on the Oil and Gas Regulation and Cleanup Fund to the Legislature.

This recommendation would continue this one comprehensive report to address three reporting requirements.

Fiscal Implication Summary

These recommendations would have a net positive fiscal impact to the State of about \$2.55 million in fiscal year 2014 and about \$1.5 million each year after, as summarized below.

Issue 1 — Changing the agency's name would have no significant fiscal impact as the Commission would phase in these changes over time using existing resources.

Issue 3 — Authorizing a new pipeline permit fee would have a savings of about \$1.5 million to the General Revenue Fund. Revenue from the newly created pipeline permit fee would be used to offset the general revenue the Legislature currently appropriates to the Commission for its Pipeline Safety program.

Issue 4 — Requiring the Commission to develop an enforcement policy and penalty guidelines would likely generate additional revenue from penalties, which are deposited in the General Revenue Fund. However, the fiscal impact of these changes could not be estimated because penalty amounts generated would depend on the number and seriousness of future violations.

Issue 5 — Eliminating the propane promotion program and associated fee would result in no net fiscal impact, but would result in the elimination of four FTEs. In addition, eliminating the program's associated dedicated account would result in a one-time gain to General Revenue of about \$1.05 million because all remaining funds in the account would roll into General Revenue Fund 1.

Railroad Commission of Texas

Fiscal Year	Savings to the General Revenue Fund 1	Change in Number of FTEs From FY 2013
2014	\$2.55 million	-4
2015	\$1.5 million	-4
2016	\$1.5 million	-4
2017	\$1.5 million	-4
2018	\$1.5 million	-4

SELF-DIRECTED SEMI-INDEPENDENT AGENCY PROJECT ACT

Steven Ogle, Project Manager

Act at a Glance

In fiscal year 2002, the Texas State Board of Public Accountancy, Texas Board of Professional Engineers, and the Texas Board of Architectural Examiners began operating under the Self-Directed Semi-Independent (SDSI) Agency Project Act, allowing them to collect revenues and establish budgets outside of the appropriations process. The Legislature has since extended SDSI status to six additional agencies, but has done so through separate statutory provisions and not under the provisions of this Act. As such, these other agencies were not included as part of this Sunset review of the Act.

The SDSI Act authorizes the Accountancy, Engineers, and Architectural boards to:

- establish and collect licensing fees for deposit outside the State Treasury in the Texas Safekeeping Trust Company;
- adopt an annual budget based on their own projections of revenues approved by the agencies' governing boards;
- keep administrative penalties, capped at 20 percent of an agency's previous year's expenditures, not to exceed \$1 million; and
- enter into contracts and lease property.

The rush of agencies to gain SDSI status causes concern for the State's overall approach to SDSI.

Summary

The SDSI Act presented a unique set of challenges for the Sunset Commission to consider. First, the Act appears conceptually incongruous with basic legislative process. Removing state agencies from the appropriations process eliminates a standard tool for the Legislature to see how well these publicly funded entities exercise the power of the State. In addition, as a statute, the Act does not lend itself to the standard criteria for Sunset reviews tailored for evaluating state agencies. More challenging still was that the SDSI Act is but a piece of a larger arrangement with six other state agencies operating under SDSI provisions but not affected by this review. In addition, the waiting list for more agencies desiring SDSI status is expected to grow longer, causing concern for the State's overall approach to SDSI.

Despite these challenges, the Sunset Commission found that the three project agencies have operated appropriately under the SDSI Act and that the Act

should continue beyond its pilot project status with additional safeguards in place to ensure adequate controls and oversight. Separate review of the SDSI Act, however, would no longer be needed as SDSI provisions would be reviewed in conjunction with each agency's Sunset review.

Separate recommendations on the Board of Architectural Examiners and Board of Professional Engineers are laid out in other sections of this report. The Board of Public Accountancy did not undergo Sunset review and is currently scheduled for review during the 2015 legislative session. The following material summarizes the Sunset Commission's recommendations on the SDSI Act.

Issue 1

Despite Lack of a Comprehensive State Approach to SDSI, the SDSI Act Is Working as Intended and Should Be Continued.

By removing project agencies from the legislative appropriations process, the SDSI Act provides project agencies with flexibility to set their own budgets and to operate on the revenue generated from fees. The Sunset Commission found the agencies to be acting in the public interest and the Act to be working as intended. However, the Commission also found that the Act did not require the project agencies to provide the Legislature with enough detailed or historical context, especially with regard to trend data, to give the more complete picture needed for proper oversight.

Recommendations

Change in Statute

1.1 Continue the SDSI Act, but remove its separate Sunset date and pilot project status and provide for its future Sunset review with agencies subject to the Act.

This recommendation would remove the Sunset provision from the Act and would instead require that a Sunset review of an agency operating under the SDSI Act include a review of the agency's performance under the Act to ensure continued legislative oversight. In addition, the recommendation would remove references to project status from the Act since the agencies have completed the test period and the Sunset review of the performance of the pilot project during that time.

1.2 Expand the data in the current reports required by agencies subject to the SDSI Act to help improve oversight.

This recommendation would continue the reporting requirements in the Act and would require agencies operating under the SDSI Act to provide five years of trend performance data in the reports they are already required to submit to the Governor, Senate Finance and House Appropriations, and Legislative Budget Board each biennium. The report would include trend data on specific measures regarding agency budgets, staffing, administration, licensing complaints and enforcement.

Issue 2

The SDSI Act Does Not Provide Needed Safeguards to Ensure Oversight and Prevent Potential Abuse.

Although project agencies are not subject to the appropriations process, they remain state agencies, using state employees, and exercising the power of the State through their licensing and enforcement efforts. However, the SDSI Act does not clearly establish what provisions of general law applicable to all state agencies also apply to project agencies or clearly establish the Comptroller's role in managing the agencies' accounts. The SDSI Act also allows project agencies to keep revenue from administrative penalties, going against good government standards for state agencies and creating the potential for project agencies to use penalties to self-support operations or increase fund balances.

Recommendations

Change in Statute

2.1 Clarify that provisions of general law applicable to state agencies apply to the project agencies if not in conflict with their SDSI status.

This recommendation clarifies the project agencies' status as state agencies by identifying general law provisions applicable to state agencies that also apply to the project agencies. This change would not impose additional duties on the agencies.

2.2 Clarify that project agencies must use the Comptroller's Uniform Statewide Accounting System to make all payments.

By requiring project agencies to use the Uniform Statewide Accounting System to process payments, this recommendation would clarify that they cannot open accounts outside the control of the Comptroller's Office, ensuring ongoing oversight through the Comptroller's post-payment audits.

2.3 Require the project agencies to remit all administrative penalties to General Revenue.

This recommendation would delete language in the SDSI Act that allows project agencies to retain administrative penalties. Instead, agencies would deposit penalties in the General Revenue Fund as is common practice for state agencies to prevent the appearance that penalties are agency revenue generators.

Fiscal Implication Summary

These recommendations would result in an estimated gain of \$248,000 to the General Revenue Fund, as summarized below.

Issue 2 — Requiring all three agencies to remit collected administrative penalties to General Revenue would result in an annual gain to the General Revenue Fund in the amount of \$248,000. Conversely, the project agencies would experience annual revenue losses in the following amounts: \$129,000 for the Accountancy Board, \$71,000 for the Architectural Board, and \$48,000 for the Engineers Board.

Self-Directed Semi-Independent Agency Project Act

Fiscal Year	Gain to the General Revenue Fund
2014	\$248,000
2015	\$248,000
2016	\$248,000
2017	\$248,000
2018	\$248,000

STATE EMPLOYEE CHARITABLE CAMPAIGN

Joseph Reed, Project Manager

Campaign at a Glance

The Legislature created the State Employee Charitable Campaign (SECC) in 1993 to provide Texas state employees and retirees, including higher education employees, the option to donate to charities through the convenience of payroll deduction. SECC's major functions include:

- administering the voluntary workplace giving campaign, including the employee donation and payroll deduction process;
- ensuring charities participating in SECC meet the eligibility criteria specified in statute; and
- distributing donations made by state employees to designated charities.

Summary

Before the advent of SECC, charitable giving in state government workplaces often took place through multiple time-consuming fund-raising drives for different causes throughout the year, which, in some instances, was said to lead to coercion of state employees. SECC changed this dynamic, providing state employees the convenience of monthly payroll deductions for a wide variety of state-approved charities, while limiting workplace solicitation.

In 2011, the Legislature placed SECC under Sunset review, which provided the first in-depth look at its structure and operations since its creation. The Sunset Commission found that in the 18 years since SECC's first campaign, the world of charitable giving has changed significantly, but SECC has not. SECC has continued to operate as it always has, with a paper-based donation system and an unwieldy administrative structure, with little attention given to the cost or effectiveness of its operations to ensure its continued success. The following material summarizes the Sunset Commission's recommendations on SECC.

The nature of charitable giving has changed since 1993; SECC has not.

Issue 1

SECC's Existing Structure Is Outdated and No Longer Effective In Meeting the Changing Needs of the Campaign.

While SECC is beneficial to state employees who voluntarily choose to donate to charities through payroll deduction, it lacks the leadership structure and direction necessary to make needed decisions and improvements to modernize the Campaign. Statute does not explicitly charge the State Employee Charitable Campaign Policy Committee to develop a strategic vision and a comprehensive budget for the Campaign. Also, SECC's structure — with one statewide campaign and 18 local campaigns — unnecessarily increases administrative costs and prevents the efficient use of employee donations.

Recommendations

Change in Statute

1.1 Continue SECC and charge the State Policy Committee with providing leadership for the Campaign, including developing a strategic plan and overall budget.

This recommendation would continue SECC as a voluntary benefit for state employees, and charge the State Policy Committee with more fully overseeing and providing leadership for the Campaign. The State Policy Committee would be required to develop a strategic plan for SECC and make improvements to the Campaign as needed, and to develop, approve, and oversee SECC's overall budget.

The State Policy Committee would also review and approve or deny charity applications, and collect and report annual summary information about the Campaign's performance. Statute would require the existence of both statewide and local campaigns, but would give the State Policy Committee flexibility to determine how to best ensure a local presence. Finally, this recommendation would remove SECC and the State Policy Committee from future Sunset review.

1.2 Require the Comptroller to provide the State Policy Committee with administrative assistance in overseeing the Campaign.

Under this recommendation, the Comptroller would be required to provide the State Policy Committee with administrative support in carrying out its oversight duties that the Committee is unable to provide without a staff of its own. The Comptroller would provide the State Policy Committee with assistance in developing and overseeing contracts, developing the budget, auditing charities' distribution of donations, and other administrative functions. The Comptroller would retain current statutory authority to charge participating charities an administrative fee to cover costs incurred to administer the Campaign.

1.3 Restructure the composition and terms of the State Policy Committee.

This recommendation would change the composition of the State Policy Committee to include nine members, with three members appointed by the Governor with the advice and consent of the Senate, three by the Lieutenant Governor, and three by the Comptroller. One of the Governor's three appointments would be required to be a state retiree. To provide continuity and expertise on the Committee, members would serve two-year staggered terms.

1.4 Apply standard Across-the-Board Recommendations to the State Policy Committee.

This recommendation would apply standard Sunset Across-the-Board Recommendations related to policymaking boards and modify them to fit the State Policy Committee's structure. Statute would specify the grounds for removal of a State Policy Committee member and members would be required to undergo training before participating on the State Policy Committee.

1.5 Restructure the State Employee Charitable Campaign Advisory Committee.

Under this recommendation, the composition of the State Employee Charitable Campaign Advisory Committee's membership would change to include representatives of four statewide or local federations, and four other charities participating in the Campaign. This recommendation would also clarify the State Advisory Committee's role and responsibilities, including advising the State Policy Committee and Comptroller in adopting rules and establishing procedures for the operation and management of the Campaign and providing input from charities to the State Policy Committee.

1.6 Remove the statutory language that allows charities that have administrative costs that exceed 25 percent of revenues and that participated in the Campaign before 2003 to participate under old eligibility requirements.

This recommendation would remove the grandfathered eligibility provision for charities that have administrative costs that exceed 25 percent of revenues. These charities would no longer be eligible to participate in SECC, even if they had participated in the Campaign before 2003. This recommendation would not affect the provision in state law that allows international charities that participated in SECC before 2003 to participate in the Campaign as long as they meet other eligibility requirements.

Management Action

1.7 Direct the State Policy Committee to evaluate and streamline SECC's current processes, organization, and structure.

This recommendation directs the State Policy Committee to revamp and modernize the Campaign. The recommendation charges the State Policy Committee with taking a critical look at SECC's current structure and operations, and making changes as needed with an eye towards centralizing administration as efficiently as possible without sacrificing effectiveness.

Fiscal Implication Summary

These recommendations would not have a fiscal impact to the State since SECC receives no state appropriation. Costs to administer SECC would continue to come from a portion of employee donations made through the Campaign, capped at 10 percent of total donations raised.

**IMPLEMENTATION OF
2011 SUNSET LEGISLATION**

IMPLEMENTATION OF 2011 SUNSET LEGISLATION

The Sunset Act requires the Sunset Commission to review the implementation of Commission recommendations and resulting legislation from the previous legislative session. This review is designed to ensure that agencies implement changes adopted by the Legislature through the Sunset process.

In 2011, the 82nd Legislature passed 18 of the 22 bills containing the Sunset Commission's recommendations. These bills contained a total of 189 provisions requiring action by the agencies involved.

Sunset staff worked with each agency affected by these provisions to assess their efforts to implement the required changes. Sunset staff found that agencies have made 87 percent of these changes, with most of the remainder in progress. Key changes implemented as a part of the Sunset process include the following.

- Merging the functions of the Texas Youth Commission and Texas Juvenile Probation Commission into a single agency focused on diverting youth from state institutions and serving them more effectively in their local communities.
- Abolishing the Coastal Coordination Council, On-Site Wastewater Treatment Research Council, Equine Research Account Advisory Committee, and Electronic Government Program Management Office of the Department of Information Resources.
- Improving the transparency, accountability, and reliability of the Texas Department of Transportation through a more integrated and understandable transportation planning process, increased public involvement, and strengthened internal controls.
- Equipping the Texas Commission on Environmental Quality (TCEQ) with the tools needed to take appropriate enforcement action, better targeting regulation according to entities' compliance history, and increasing the transparency of TCEQ's enforcement approach and specific policies.
- Improving the functions of the Division of Workers' Compensation (DWC) at the Texas Department of Insurance to streamline the workers' compensation process by simplifying the resolution of disputes to provide a quicker, more accessible alternative to the courts, improving oversight of medical care provided, and strengthening DWC's ability to take enforcement actions to protect system participants.

The chart, *Summary of 2011 Sunset Legislation Implementation*, shows that 13 percent of the provisions have not yet been fully put into action. The chart on page 167, *2011 Sunset Legislation Implementation by Agency*, shows the progress of each agency in implementing its statutory changes. Detailed information on the status of each statutory provision that is in progress, or not implemented, is provided by agency in the following exception charts.

Summary of 2011 Sunset Legislation Implementation

Status of Provisions	Number	Percentage
Implemented	164	87%
In Progress	23	12%
Not Implemented	2	1%
Total	189	100%

The Sunset Commission did not conduct a compliance review for four of the agencies under Sunset review, as their Sunset legislation failed to pass into law during 82nd Legislature. The Legislature did not pass the Sunset bills for the Railroad Commission of Texas or the Public Utility Commission of Texas but continued the agencies for another two years through a bill that makes adjustments to the Sunset Commission's review schedule for several upcoming biennia. The Governor vetoed the two Sunset bills that would have continued the Texas Department of Information Resources and the Department of Housing and Community Affairs. However, the 82nd Legislature passed separate legislation during its 1st Called Session reauthorizing both agencies for two years and placing them again under Sunset review.

In addition to statutory changes, the Sunset Commission adopted 45 management recommendations for improvements to agency operations under review before the 2011 Session. In November 2012, the State Auditor's Office evaluated the implementation of the 25 most important management recommendations, identifying five as incomplete or ongoing.¹ Sunset staff, in January 2013, followed up on these five management recommendations and determined that two had still not been implemented. The chart on page 177 provide further information on these two recommendations.

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¹ The Auditor's findings are contained in SAO Report No. 13-006, *A Report on State Agency and Transportation Authority Implementation of Sunset Advisory Commission Management Actions*, which can be obtained at www.sao.state.tx.us.

Implementation of 2011 Sunset Legislation by Agency*

Agency	Bill Number	Changes Required	Changes Implemented	In Progress	Not Implemented
Capital Metropolitan Transportation Authority	S.B. 650	9	8	1	—
Coastal Coordination Council	S.B. 656	5	1	4	—
Emergency Communications, Commission on State	H.B. 1861	3	3	—	—
Environmental Quality, Texas Commission on	H.B. 2694	25	23	2	—
On-site Wastewater Treatment Research Council					
Forest Service, Texas	S.B. 646	4	4	—	—
Hearing Instruments, State Committee of Examiners in the Fitting and Dispensing of	S.B. 663	12	12	—	—
Housing Corporation, Texas State Affordable	H.B. 1818	4	4	—	—
Injured Employee Counsel, Office of	H.B. 1774	3	3	—	—
Insurance, Texas Department of	H.B. 1951	14	9	5	—
Insurance Counsel, Office of Public	S.B. 647	1	1	—	—
Juvenile Justice Department, Texas	S.B. 653	21	16	3	2
Public Finance Authority, Texas	H.B. 2251	3	3	—	—
Racing Commission, Texas	H.B. 2271	11	8	3	—
Equine Research Account Advisory Committee					
Soil and Water Conservation Board, Texas State	H.B. 1808	8	6	2	—
Speech-Language Pathology and Audiology, State Board of Examiners for	S.B. 662	3	3	—	—
Transportation, Texas Department of	S.B. 1420	28	25	3	—
Water Development Board, Texas	S.B. 660	11	11	—	—
Workers' Compensation at Texas Department of Insurance, Division of	H.B. 2605	24	24	—	—
Totals		189	164	23	2

* As of January 2013.

Capital Metropolitan Transportation Authority – S.B. 650

Senate Bill 650, as adopted by the 82nd Legislature, made numerous changes to the operations and finances of the Capital Metropolitan Transportation Authority (Capital Metro). The legislation included nine changes requiring action. The following chart summarizes one provision that is still in progress and provides its status.

Bill Provision	Implementation	
	Status	Comments
<p>1. Requires the Board to maintain a reserve equal to at least two months of operating expenses and requires the Board to adopt criteria for spending any amount in the core balance of the reserve fund.</p> <p>Requires Capital Metro to report to the Legislature on its progress meeting the reserve no later than December 31, 2014, and requires the Board to establish the reserve account no later than September 1, 2016.</p>	<p>In Progress</p>	<p>In September 2010 the Board adopted a policy on establishment and expenditure of reserves, and is making progress towards establishing the reserve account. Capital Metro estimates a two-month operating reserve to be about \$30 million and estimates a fiscal year 2013 ending balance of about \$26.7 million. Capital Metro is not required to establish the reserve account until September 1, 2016.</p>

Coastal Coordination Council – S.B. 656

Senate Bill 656, as adopted by the 82nd Legislature, abolished the Coastal Coordination Council and transferred its functions to the General Land Office (GLO). The legislation included a total of five changes requiring action. The following chart summarizes four provisions that are still in progress and provides the status of each

Bill Provision	Implementation	
	Status	Comments
1. Abolishes the Coastal Coordination Council and transfers its functions and existing authority to GLO and the Land Commissioner. Provides transition language requiring GLO to consult with the National Oceanic and Atmospheric Administration (NOAA) to ensure continued compliance with federal requirements for maintaining approval of the State's Coastal Management Program.	In Progress	The transfer of Coastal Management Program functions to GLO must be formally approved by NOAA to maintain compliance with federal requirements. GLO estimates NOAA will approve this change by April 2013.
2. Requires the Land Commissioner, by rule, to establish the Coastal Coordination Advisory Committee to advise the Commissioner on the Coastal Management Program. Requires membership to include representatives from each of the previous Council-member agencies, and requires the Commissioner to appoint four members representing specific interests to the Advisory Committee.	In Progress	GLO has formed the Advisory Committee. The Land Commissioner has appointed all but one of his four appointees, and each previous Council-member agency has appointed their representative. However, GLO has not yet established this Committee in rule. Agency staff estimates these rules will be adopted by April 2013, though no official action has been taken.
3. Prohibits the Land Commissioner from reviewing a consistency determination of GLO, the Land Commissioner, or the School Land Board. Requires the Land Commissioner to refer requests for review of these consistency determinations to the Attorney General, and establishes a review process at OAG. Authorizes the Attorney General to adopt rules to implement this process.	In Progress	GLO legal staff is working with the Office of the Attorney General to implement this consistency determination process, but rules have not yet been adopted.
4. Deletes statutory language to remove an outdated provision and language detailing the federal consistency review process to better conform to federal requirements.	In Progress	NOAA approval is necessary to implement this provision, and GLO estimates NOAA will approve this change by April 2013.

Texas Commission on Environmental Quality – H.B. 2694

House Bill 2694, as adopted by the 82nd Legislature, continued the Texas Commission on Environmental Quality (TCEQ) for 12 years. The legislation included a total of 25 changes requiring action. The following chart summarizes two provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Transfers the authority for making groundwater protection recommendations regarding oil and gas activities from TCEQ to the Railroad Commission of Texas, relating to three types of wells: oil and gas wells, injection wells for oil and gas waste, and injection wells for geologic storage of anthropogenic carbon dioxide.	In Progress	The agencies substantially completed the transfer of the program from TCEQ to the Railroad Commission in September, 2011. The Railroad Commission is continuing to adopt rules relating to the program, most recently publishing proposed rules in the Texas Register on September 7, 2012. Once the Railroad Commission adopts all necessary rules to complete implementation, TCEQ will repeal its rules related to the program.
2. For certain water management plans, requires the executive director to complete a technical review within one year of administrative completion; allows the applicant 30 days to provide additional information to TCEQ and provides for a tolling period; provides for public comment; and requires the Commission to act on a hearing request and act on the application within 60 days.	In Progress	The Lower Colorado River Authority submitted its water management plan to TCEQ on March 12, 2012. TCEQ expects to complete its technical review of the plan well before April 19, 2013, as required by provisions in the bill.

Texas Department of Insurance – H.B. 1951

House Bill 1951, as adopted by the 82nd Legislature, continued the Texas Department of Insurance (TDI) for 12 years. The legislation included a total of 14 changes requiring action. The following chart summarizes five provisions that are still in progress, and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
<p>1. Requires TDI to better define the process for requesting supplemental information from insurers in rule.</p> <p>Requires TDI to track, compile, and routinely analyze the number and type of supplemental information requests it makes. Requires TDI to routinely track, compile, and routinely analyze factors that contribute to rate disapprovals.</p>	In Progress	<p>The Department indicates that draft rules relating to supplemental information are expected to be adopted in May 2013.</p> <p>The Department has initiated a process for tracking supplemental information requests beginning in January 2013.</p>
<p>2. Requires TDI to generally define, in rule, factors that could result in a company being placed under prior approval.</p>	In Progress	<p>The Department has drafted rules relating to prior approval factors and expects their adoption in June 2013.</p>
<p>3. Requires the Commissioner to establish a penalty matrix for violations by State Fire Marshal's Office (SFMO) licensees and to delegate administration of these penalties to the SFMO, by rule.</p>	In Progress	<p>The Department indicates that draft rules have been published and should be adopted in April 2013.</p>
<p>4. Requires TDI to develop and implement a plan to collect from insurers and publish certain information relating to the processing of personal automobile and residential property claims, and requires TDI to publish the information on its website. Provides that the information will be collected on an annual basis, with the information broken down by quarter.</p>	In Progress	<p>The Department has begun to collect claims information data, and plans to publish the information on its website in March 2013.</p>
<p>5. Requires the Commissioner to study the reduced rate filing requirements for insurers writing residential property insurance in underserved areas, including the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements. Requires the study results to be included in the TDI's biennial report. Expands the factors that the Commissioner must consider when designating areas of the state as underserved to include reasonable access to the full range of coverages and policy forms.</p> <p>Requires the Commissioner to study areas of the state designated as underserved and to determine which areas to designate as underserved every six years.</p>	In Progress	<p>The Department has completed its study of the impact of increasing the percentage of the total amount of premiums collected to qualify for reduced rate filing requirements, and published the study in its December 2012 biennial report.</p> <p>The Department has not yet studied the areas of the state designated as underserved nor determined which areas to designate as underserved, as the bill requires it to do once every six years.</p>

Texas Juvenile Justice Department – S.B. 653

Senate Bill 653, as adopted by the 82nd Legislature, abolished the Texas Juvenile Probation Commission and the Texas Youth Commission and transferred their functions to a newly created state agency, the Texas Juvenile Justice Department (TJJD), with a Sunset date of 2017. The legislation included a total of 21 changes requiring action. The following chart summarizes two provisions that have not been implemented and three provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Expands existing language on interagency cooperation to include improvement of services for all youth served by the Department, instead of only youth on probation. Authorizes the Department to cooperate and contract with private foundations in addition to governmental entities.	In Progress	TJJD's Executive Director has met with the executives of the state agencies required by the bill, but these agencies have not met as a group and have not made joint recommendations to the Governor or Legislature to increase collaboration.
2. Requires the Department to operate a single toll-free number to receive any information concerning the abuse, neglect, or exploitation of children in the custody of the Department or housed in a local probation facility. Requires that the Department operate and answer the hotline 24 hours per day, every day of the year. Modifies the provision to require the Department to share complaints received on its 24-hr hotline with the Office of Inspector General and the Office of Independent Ombudsman.	Not Implemented	TJJD operates the hotline as required but has not reduced the two existing toll-free numbers to one because of the prohibitive cost of reprinting all printed material in county facilities.
3. Requires the Department to establish and implement a program evaluation system. Requires the Department to establish and implement a system to evaluate the effectiveness of state and county programs and services for youth.	In Progress	TJJD has completed its evaluation of state programs but has only begun its evaluation of county programs. TJJD anticipates completing its county program evaluation by the end of 2013.
4. Provides that statements made by a child or data obtained during administration of the risk and needs assessment is not admissible against the child at any other hearing. Extends the same protection for the risk and needs assessment as currently exists for the mental health screening.	Not Implemented	TJJD reports that, in practice, staff administering mental health assessments verbally inform youth of this provision. However, TJJD has yet to adopt rules to ensure this practice but intends to do so in fiscal year 2013.
5. Requires the Department to encourage compliance with state or federal educational service standards by facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency; and developing a plan to ensure continuity of educational services to juvenile offenders, including special education for youth with disabilities.	In Progress	TJJD is developing training for local probation departments on state and federal educational service standards. Over the next two years, TJJD anticipates collaborating with probation departments, school districts, and the Texas Education Agency on a plan to ensure continuity of educational services to juvenile offenders.

Texas Racing Commission – H.B. 2271

House Bill 2271, as adopted by the 82nd Legislature, continued the Texas Racing Commission for 6 years. The legislation included a total of 11 changes requiring action. The following chart summarizes three provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Requires the Commission to designate racetrack licenses as either active or inactive and develop, in rule, renewal criteria for licenses designated as inactive. Requires the Commission to perform reviews of active racetrack licenses every five years. Designates a one year renewal timeframe for inactive racetracks. Authorizes the Commission to develop and assess fees as part of the renewal process. In addition, authorizes the Commission to refuse to renew an inactive racetrack license. Instructional Provision that requires the Commission to designate each racetrack license as either inactive or active by no later than September 1, 2012.	In Progress	The Commission adopted all necessary rules except on the scheduling and process for conducting reviews of active race tracks. The Commission designated all licenses as active or inactive at its meeting on August 14, 2012. The Commission will consider a proposed rule on the scheduling and process for conducting reviews of active race tracks at its February 19, 2013 meeting.
2. Adds standard Sunset language requiring the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.	In Progress	The Commission will consider a proposed rule implementing this recommendation at its February 19, 2013 meeting.
3. Specifies that an active racetrack license effective until the license is designated as inactive or is surrendered, suspended, or revoked. Also specifies that the commission should use revocation only when it reasonably determines that other disciplinary actions are inadequate.	In Progress	The Commission will consider adopting a proposed rule eliminating perpetual racetrack licenses at its February 19, 2013 meeting.

Texas State Soil and Water Conservation Board – H.B. 1808

House Bill 1808, as adopted by the 82nd Legislature, continued the Texas State Soil and Water Conservation Board for 12 years. The legislation included a total of eight changes requiring action. The following chart summarizes two provisions that are still in progress and provides the status of each.

Bill Provision	Implementation	
	Status	Comments
1. Clarifies that the State Board’s brush control efforts should focus on water supply enhancement and changes the name of the Program from Brush Control to Water Supply Enhancement. Requires the State Board to establish program goals.	In Progress	The State Board has changed the name and focus of its program from the Brush Control Program to Water Supply Enhancement Program. The State Board has also created draft goals and an outline for its next Water Supply Enhancement Plan. The State Board expects to adopt and publish the Plan by July 2013.
2. Requires the State Board to develop a system to rank and prioritize water supply enhancement projects, rather than areas of the state, based on water conservation need and water yield. Requires the State Board to rank, based on need for water conservation and potential water yield, watershed projects across the state. Specifies criteria for project prioritization, including projected water yield through a model in a feasibility study.	In Progress	The State Board has developed the components necessary for ranking and prioritizing water supply enhancement projects. Specifically, the State Board, in consultation with stakeholders and hydrologists, has completed a system for ranking water conservation need, created a spatial analysis system to determine the highest water-yielding acres of a watershed, and adopted rules to reflect new statutory changes. The State Board expects to fully implement these components in a comprehensive system to rank and prioritize water supply enhancement projects in July 2013.

Texas Department of Transportation – S.B. 1420

Senate Bill 1420, as adopted by the 82nd Legislature, continued the Texas Department of Transportation (TxDOT) for four years. The legislation included 28 changes requiring action. The following chart summarizes three provisions that are still in progress and provides the status of each.

Bill Provisions	Implementation	
	Status	Comments
<p>1. Requires TxDOT to develop and implement a public involvement policy that guides and encourages more meaningful public involvement efforts agency-wide. Requires the Department’s public involvement policy to make efforts toward clearly tying public involvement to decisions made by the Department and providing clear information to the public about specific outcomes of public input.</p>	In Progress	<p>The Transportation Commission has adopted a Public Involvement Policy that requires the agency to “purposefully involve the public in planning and project implementation by providing for early, continuous, transparent and effective access to information and decision-making processes.” The agency is preparing guidance for staff to ensure that efforts are made to tie public input to Department decisions, and to notify the public on the specific outcomes of public input. The agency anticipates this guidance will be completed and distributed by mid-2013.</p>
<p>2. Authorizes TxDOT to enter into comprehensive development agreements (CDAs) for all or part of the following projects, with this authority expiring on August 31, 2015 for all of the projects except the State Highway 99 (Grand Parkway) project:</p> <ul style="list-style-type: none"> • the State Highway 99 (Grand Parkway) project; • the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380; • the North Tarrant Express project in Tarrant and Dallas Counties, including on State Highway 183 from State Highway 121 to State Highway 161 (Segment 2E); on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4); • the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E; • the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774; 	In Progress	<p>Six of the authorized projects are currently in various stages of procurement or implementation. The seventh, U.S. Highway 290 in Houston, is being constructed via the traditional design-bid-build method, rather than as a CDA.</p> <p>The following projects have not received full environmental clearance.</p> <ul style="list-style-type: none"> • The State Highway 99 (Grand Parkway) project, Segments B, C, H, and I-1. Anticipate clearance late 2013/2014. • The North Tarrant Express project in Tarrant and Dallas Counties, including on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4). Currently under review. • The State Highway 288 project in Brazoria County and Harris County. Currently under review; anticipate clearance in 2013. • The U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99. Record decision approved August 2012; anticipate remaining re-evaluations by 2013.

Texas Department of Transportation – S.B. 1420 (continued)

<ul style="list-style-type: none"> • the State Highway 288 project in Brazoria County and Harris County; and • the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99. <p>Before entering into a CDA for these projects, requires the Department to obtain the appropriate environmental clearance by August 31, 2013 for any project other than the State Highway 99 (Grand Parkway) project, and present a full financial plan for the project, including costing methodology and cost proposals, to the Commission. Requires the Department to present a report to the Commission on the status of each CDA project, including status of environmental clearance, explanation of any project delays, and anticipated procurement completion date, by December 1, 2012.</p>		
<p>3. Authorizes TxDOT or certain Regional Mobility Authorities (RMAs) to enter into a CDA relating to improvements to or construction of the following projects, with this authority expiring on August 31, 2015:</p> <ul style="list-style-type: none"> • the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street; • the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue; or • a project consisting of the construction of the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100. <p>Before entering into a CDA for these projects, requires the Department or RMA as applicable to obtain the appropriate environmental clearance by August 31, 2013 and present a full financial plan for the project, including costing methodology and cost proposals, to the Commission. Requires the Department or RMA to present a report to the Commission on the status of each CDA project, including status of environmental clearance, explanation of any project delays, and anticipated procurement completion date, by December 1, 2012.</p>	<p>In Progress</p>	<p>These projects are currently in various stages of procurement or implementation.</p> <p>The following projects have not received full environmental clearance.</p> <ul style="list-style-type: none"> • The U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue. Anticipate completion of environmental study in 2014. • A project consisting of the construction of the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847. Environmental study in progress. • The South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100. Final Environmental Impact Statement in progress.

2011 Sunset Management Recommendations Not Implemented*

Texas Forest Service		
Management Recommendation	Implementation	
	Status	Comments
1. Direct the Texas Forest Service to reduce the current number of its field offices, co-locating staff with other public agencies when possible.	Not Implemented	<p>The Texas Forest Service conducted a comprehensive assessment of the agency's office locations but determined that no other office closures are necessary. The number of agency field offices has expanded since publication of the Sunset report from 52 to 67.</p> <p>The agency notes that most field offices have a wildfire response component making them important for timely and effective response to minimize damage and loss of life and property. The agency also notes that more than half of its field offices are co-located with other public agencies.</p>
Texas Water Development Board		
Management Recommendation	Implementation	
	Status	Comments
1. The Board should request a full exemption for the Texas Natural Resources Information System (TNRIS) from the data center services contract at the Department of Information Resources (DIR) to accommodate its statutory emergency management responsibilities.	Not Implemented	<p>While the Board requested, and was denied, an exemption for the entire agency from the data center services contract in spring 2011, it has not requested an exemption specific to TNRIS. The Board and DIR have worked on an alternative approach to address several of the Sunset Commission's concerns related to TNRIS through the Pilot Texas Cloud Offering. However, uncertainty regarding the use of contract funds for a continued cloud vendor threatens to require the Board to again work with DIR to find a solution for TNRIS.</p>

* As of January 2013.

APPENDICES

APPENDIX A

Sunset Review Schedule – 2015

Accountancy, Texas State Board of Public
Administrative Hearings, State Office of
Aging and Disability Services, Department of
Assistive and Rehabilitative Services, Department of
Banking Commissioner, Office of
Children With Special Needs, Interagency Task Force for
Consumer Credit Commissioner, Office of
Developmental Disabilities, Texas Council for
Family and Protective Services, Department of
Finance Commission of Texas
Guardianship Certification Board
Health and Human Services Commission
Health Services, Department of State
Health Services Authority, Texas
People with Disabilities, Governor's Committee on
Purchasing from People with Disabilities, Texas Council on
Regional Education Service Centers
Savings and Mortgage Lending, Office of Commissioner and Department of
Securities Board, State
Soil and Water Conservation Board, State
Tax Division, State Office of Administrative Hearings
Transportation, Texas Department of
Windstorm Insurance Association, Texas
Workforce Commission, Texas
Workforce Investment Council, Texas

APPENDIX B

Summary of the Texas Sunset Act

Sunset Act

The Texas Sunset Act (Chapter 325, Government Code) went into effect in August 1977. It provides for automatic termination of most agencies under Sunset review, although a few agencies under review are exempt from automatic termination.

Sunset Advisory Commission

The 12-member Sunset Advisory Commission has five members of the Senate, five members of the House, and two public members, appointed by the Lieutenant Governor, and the Speaker of the House, respectively. The chairmanship rotates between the Senate and the House every two years.

Reviewing an Agency

When reviewing an agency, the Commission's staff must consider statutory criteria as shown in the textbox, *Sunset Review Questions*. The Commission's report on an agency must include a recommendation to abolish or continue the agency, and may contain recommendations to improve an agency or correct problems identified during the review. These changes may include other agencies not under review that overlap or duplicate, or otherwise relate to the agency under review.

Sunset Review Questions

1. How efficiently and effectively does the agency and its advisory committees operate?
2. How successful has the agency been in achieving its mission, goals, and objectives?
3. Does the agency perform any duties that are not statutorily authorized? If so, what is the authority for those activities and are they necessary?
4. What authority does the agency have related to fees, inspections, enforcement, and penalties?
5. In what ways could the agency's functions/operations be less burdensome or restrictive and still adequately protect and serve the public?
6. How much do the agency's programs and jurisdiction duplicate those of other agencies and how well does the agency coordinate with those agencies?
7. Does the agency promptly and effectively address complaints?
8. To what extent does the agency encourage and use public participation when making rules and decisions?
9. How has the agency complied with state and federal requirements regarding equal employment opportunity, the rights and privacy of individuals, and purchasing guidelines for historically underutilized businesses?
10. How effectively does the agency enforce rules on potential conflicts of interest of its employees?
11. How effectively and efficiently does the agency comply with the Public Information Act and the Open Meetings Act?
12. Would abolishing the agency cause federal government intervention or loss of federal funds?
13. Do the agency's statutory reporting requirements effectively fulfill a useful purpose?

Appendix B

Continuing an Agency

If the Commission recommends that an agency be continued, it has legislation drafted for that purpose, and to make improvements identified during the Sunset review. Sunset legislation typically continues an agency for 12 years, although the Commission may recommend a shorter term.

Terminating an Agency

If the Commission recommends abolishment of an agency, the agency generally has a one-year period to wind down its operations. The agency retains full authority and responsibility until the end of that year, at which time its property and records are transferred to the appropriate state agency.

Compliance Reviews

The Commission is required to examine an agency's implementation of a Sunset bill before the next legislative session. In addition, the State Auditor evaluates the agency's compliance with certain non-statutory management changes recommended by the Commission.