

The logo for the Texas Sunset Advisory Commission is a black semi-circle with a white border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, white, sans-serif font.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

State Property Tax Board

A Staff Report
to the
Sunset Advisory Commission

1988

STATE PROPERTY TAX BOARD

June 1988

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Summary of Recommendations

The State Property Tax Board (SPTB) was created in 1979. The agency's main responsibilities include: determining the taxable property wealth in local school districts to guide the distribution of state aid; evaluating appraisal practices throughout the state; establishing uniform appraisal methods and tax administration materials; and developing training material and public information related to property tax. The State Property Tax Board is composed of six members appointed by the governor with the advice and consent of the senate. All appointees must have been residents of Texas for at least 10 years and at least two members must be certified tax professionals. Members serve six year terms and the governor designates one member to serve as chairman of the board. The agency has an annual operating budget of approximately \$4.5 million and has 120 full-time employees.

The main activity of the agency is the completion of two annual studies: the annual property value study which determines the taxable wealth in each school district; and the annual ratio study which examines the level and uniformity of appraisals within local appraisal districts. Approximately 71 of the agency's 120 staff are directly responsible for conducting the studies. Both studies are important to ensure that state funding to public schools and property tax responsibilities are distributed equitably throughout the state. A new responsibility, which has not been fully implemented yet, was added to the SPTB's duties by the 70th Legislature. The agency is now responsible for conducting a performance audit of a local appraisal district in response to a petition from local taxpayers or taxing units.

The sunset review of the agency's structure, administration, and programs concluded that the agency is meeting the need for which it was originally created, and that the responsibilities of the agency continue to fulfill an important need of the state. Accordingly, the review indicated that the agency should be continued for a period of 12-years.

The sunset review also determined that if the agency is continued, a number of changes should be made to improve the efficiency and effectiveness of the agency's operations. These changes focus on improving the accuracy of the two studies and strengthening requirements for performance audits of local appraisal districts. These findings are outlined in the material that follows.

RECOMMENDATION

THE AGENCY SHOULD BE CONTINUED FOR A 12-YEAR PERIOD WITH THE FOLLOWING CHANGES:

Policy-making Structure

Composition of the Board

1. **The composition of the board should be modified to provide for the following members:**
 - **one chief appraiser of a central appraisal district;**
 - **one school district superintendent;**
 - **one county tax assessor-collector; and**
 - **three public members that have none of the statutory qualifications of the other members. (Statutory) (p. 29)**

State law leaves a high degree of flexibility in the composition of the board. A change to law which became effective in 1983 required that at least two of the six members of the SPTB board be certified as property tax professionals. Prior to that time, no tax professionals served on the board. In the past five years, as many as four members of the board have been local tax officials. The proposed change would provide more assurance that the board composition represents a balanced perspective of experts in the field and the public.

Authority to Use Advisory Committees

2. **The board should be authorized to appoint advisory committees, as needed. The statute should provide general guidelines concerning their structure and operations. (Statutory) (p. 32)**

The agency has used advisory committees for advice in technical matters for many years. However, the agency has no statutory authority to appoint such committees or to reimburse committee members for their expenses. Statutory authority is recommended in this area to ensure that committees have a balanced composition, a clearly stated purpose, and that members are compensated in a standard way.

Overall Administration

Fees for Serving Process

3. Fees for the agency's services regarding notice to out-of-state delinquent taxpayers of pending lawsuits should be changed to match those of the Secretary of State. The statute for the SPTB would thus:
 - Authorize a new \$25 fee for maintaining a record of service of process; and
 - Reduce the fee for a certificate of service from \$25 to \$10. (Statutory) (p. 34)

The agency recovers only a small percentage of its costs of handling processes for delinquent tax lawsuits involving out-of-state taxpayers. The current statutory fee structure only allows SPTB to charge a fee for a small portion of its services. Other state agencies which perform similar services are authorized to charge fees for more of their services. The proposed fee structure is similar to the one used by the Secretary of State and will cover more of the SPTB's direct costs associated with this responsibility.

Evaluation of Programs

Access to Information on the Sale of Real Property

4. Information on the sale of real property, including the selling price, should be reported to the property tax system for use in appraisal. (Statutory) (p. 42)

Property taxes are based on the full market value of taxable property, according to state law. An appraisal is an estimate of a property's full market value. Information on the sale of real property is often used by appraisers to determine the market value of property. However, in Texas, such information is available only on a voluntary basis. In 40 other states, sales information must be disclosed. Requiring the disclosure of sales information to appraisal districts will result in more accurate and less costly appraisals throughout the property tax system. In addition, the agency should be authorized to use the information on file with the districts in the annual studies.

Access to Income-Producing Property for Appraisal

5. The SPTB should be authorized to enter income-producing property to inspect it for appraisal purposes. (Statutory) (p. 45)

Physical inspection of property is often important in the appraisal of complex property such as commercial businesses and industrial plants. Appraisal districts are provided statutory authority to inspect such property at reasonable times for the purpose of appraisal. Providing the agency with similar authority will result in more accurate appraisals being used in the studies and increase the efficiency of conducting such appraisals.

Access to Uniform Appraisal Rolls

- 6. The SPTB should continue to work with appraisal districts to set the format for appraisal rolls and require their submission to the agency. (Management-Improvement) (p. 46)**

The agency currently has the statutory authority to require appraisal districts to submit appraisal rolls to the agency. In recent years, the agency has only required districts to submit a summary of the rolls. This year, the agency has begun working with appraisal districts to establish a useful and manageable format for submission of the complete roll. This recommendation points out the advantages of having the appraisal rolls available for conducting the annual studies, and encourages continued work in this area.

Information Considered in the Appeals Process

- 7. Information on the statistical accuracy of a study finding under appeal should be routinely provided to the appeals panel and board for consideration. (Management-Improvement) (p. 48)**

There are two levels of formal hearings used to review study findings that are appealed: one conducted by a board-appointed appeals panel and one conducted by the board. Written documentation submitted by the appellant, agency work papers, and agency recommendations concerning the protest are reviewed regularly at both levels of hearing. However, statistical measures that are developed by the staff to examine the probable accuracy of the findings are not included in the information reviewed. This information could assist the panel and board in identifying findings that need further examination.

Technical Advice on Study Methodology

- 8. The SPTB should establish a technical advisory committee. The committee should review the methodology of the annual studies, submit an annual report to the board on its findings, and advise the board on study methodology. (Statutory) (p. 50)**

The annual property value study has a significant bearing on the method used to distribute state educational aid to local districts. Therefore, the methodology used to conduct the study must provide the highest level of accuracy possible within the limitations of available resources. A technical advisory committee made up of experts in the field should be established to review the study methods and advise the board on appropriate methodology. This will provide the board with the technical expertise necessary to provide advice on the accuracy of the study.

Modification of Performance Audit Provisions

- 9. The performance audit requirements should be modified to require a district to have an independent performance audit of its operations conducted if the annual ratio study indicates that the district's appraisals are not reasonably uniform or close to market value for four consecutive years. (Statutory) (p. 52)**

Currently, the statute requires the State Property Tax Board to conduct a performance audit of an appraisal district when requested to do so by a certain number of taxpayers or taxing units in the district. While performance audits of appraisal districts are needed in some cases, the current method of providing the audits has a number of drawbacks. The method for initiating the audit from the local level is awkward. The state also ties up general revenue funding for staff to carry out an unknown number of audits that might be requested. An alternative to the current method should be considered. The statute could be changed to require an appraisal district to contract for a performance audit when the state's ratio study showed poor performance for four consecutive years. This alternative approach has several benefits: the performance audit would be triggered automatically, the audit and its results would be handled locally, and state resources would not be tied up in the effort.

AGENCY EVALUATION

Background

Background

The Property Tax System in Texas

The most important source of tax revenue for local government in Texas is the property tax. In fiscal year 1986, property tax in Texas comprised 40 percent of all taxes collected by state and local governments, compared to a national average of 30 percent.

Property tax levies in 1986 totaled \$9.6 billion for 3,336 taxing units across the state. Half of this amount was used to finance public schools. Local governments that levy property taxes include counties, cities, school districts, and special districts such as municipal utility, hospital, junior college, navigation and fire control districts. Total property tax levies for the various types of taxing unit are shown in the exhibit below. On a per capita basis, property taxes in 1986 amounted to \$538 for each Texas resident, up from \$497 in 1985. Adjusted for inflation, this is an increase of about six percent. The 1986 per capita school portion is \$280.

Statewide Property Tax Levies 1985 - 1986

Type of Taxing Unit	1985	1986	Rate of Increase
School Districts	\$4,663,591,611	\$5,026,480,370	7.78%
Cities	1,820,344,554	1,968,779,216	8.15%
Counties	1,427,754,824	1,482,278,997	3.82%
Special Districts	1,057,102,080	1,141,620,468	8.00%
Total	\$8,968,793,069	\$9,619,159,051	Avg 7.25%

In 1977, Texas established a state agency whose sole purpose was working with the local property tax system, the School Tax Assessment Practices Board. The state's involvement was considered necessary because of the important role property wealth plays in the distribution of state aid for education. State aid to school districts in Texas is partly based on the taxable value of property in the district. The more taxable value, the less the district receives in state aid. Until the agency's creation, property wealth in a school district was determined by that district, without oversight or verification by a separate body. A school district which valued its property at less than market value would receive more than its fair share of state funding. Having a state agency determine the total taxable value of property within each school district was intended to guarantee a more equitable distribution of state

aid. To perform this new state function, the School Tax Assessment Practices Board (STAPB) was authorized to conduct a biennial study to determine the taxable value of property in each district. It issued a report of school district values for 1977 and 1979.

As a part of the structure created in 1977, Texas law provided for the regulation of all tax professionals engaged in the appraisal of property for ad valorem tax purposes. Chief appraisers, and appraisers that work in appraisal districts, as well as tax assessor-collectors, are required to register with the Board of Tax Professional Examiners.

In 1979, the legislature took another step which changed the structure of the local property tax system through the enactment of Senate Bill 621, which created the Property Tax Code. Before this time, each taxing unit determined the values of property within its own jurisdiction. A property located in several taxing jurisdictions could thus have several values attached to it. For example, a taxpayer might pay city, county and school district taxes, each based on a different value of the property. Taxpayers had to deal with several jurisdictions when a dispute arose over values. The law changed this by establishing "central appraisal districts" in each county to develop a universal property value for use by all taxing units in a county. Members of an appraisal district's board of directors are appointed by vote of the governing bodies of the county, incorporated cities, towns and school districts that are included in the district. The officials of the appraisal district are responsible for the appraisal of all taxable property within the district's boundaries. The district prepares an appraisal roll for each taxing unit to use for taxing purposes.

As a result of the provisions of the Property Tax Code, all appraisal of property for ad valorem purposes is now consolidated at the county level in centralized appraisal districts. In two counties, Potter and Randall counties, a joint central appraisal district has been established; separate districts are operated in all other counties. For this reason, there are 253 central appraisal districts in Texas.

Tax assessment and collection functions were not centralized under the code. Therefore, each local taxing unit retains the assessment and collection authority. The Texas Constitution provides for the election of a county tax assessor-collector, in each county. Assessors and collectors for other taxing jurisdictions are determined by the laws creating or authorizing the taxing unit. All assessors prepare a tax roll for their jurisdiction using the appraisal roll which the appraisal district prepares. Exemptions are subtracted from the appraised value of each property to determine the total taxable value in the taxing jurisdiction. The assessor then applies a tax

rate to the values to determine the total tax due for each property, and the roll is approved by the appropriate governing body. The assessor then prepares and mails the tax statements. The collector gathers taxes on taxable property in the taxing unit's boundaries, accounts for tax payments, makes refunds, and issues tax certificates, among other duties. Typically, the assessment and collection functions are performed under the direction of one person in the taxing unit.

The State Property Tax Board (SPTB) was created in 1979 to assist in the consolidation of local appraisal functions within the central appraisal districts and to encourage uniformity in appraisal practices, as well as to perform the previous duties of the STAPB. One of the agency's primary functions is conducting the annual property value study of school districts for use in state formulas to determine school funding. Using the same data, the agency also conducts the annual ratio study to determine the level and uniformity of appraisals within each appraisal district. Other duties of the agency include developing standard practices and forms for local tax administration, and educational materials for property tax professionals.

In addition to centralizing appraisal functions and creating the SPTB, the Property Tax Code also established "Truth-in-Taxation" provisions to better protect and inform the taxpayer. These provisions require that taxing units publish information about anticipated increases in property taxes. They also require taxing units to calculate and publish their "effective" tax rate before they can adopt a new tax rate. The effective tax rate is the rate which would be needed to generate enough revenue to meet the unit's current debt payments, plus the prior year's tax levy for maintenance and operations. The public can use the effective tax rate as a benchmark to compare with the new rate being proposed in order to determine the actual increase. Special provisions also exist for notices and hearings to be held in cases where tax rates exceed a certain limit and to allow taxpayers to "roll back" or limit tax increases.

Another change made by the Property Tax Code was the establishment of local appeal boards. Taxpayers who disagree with the appraised value of their property may appeal for an adjustment to a separate local appeal board called an appraisal review board (ARB) within each appraisal district. This gives the taxpayer one body to appeal to regarding property value disputes. The members of the ARB are appointed by the board of directors of the appraisal district. The ARB reviews, corrects and approves the appraisal records of the appraisal district. Taxpayers may come before the board and challenge their appraisal, exemption denials, and other

matters. If, after a hearing, the taxpayer is not satisfied with the decision of the ARB, he may petition the district court for a review of the case.

Legislative changes have been made to the code since 1979 but these changes basically refined the existing system. A description of the SPTB and its major duties follows.

Creation and Powers

The State Property Tax Board was created with the enactment of Senate Bill 621 in 1979. The board's main responsibilities are to determine the taxable value of property in school districts for the purpose of distributing state aid to public schools, and to evaluate and report on whether appraisal districts are appraising property uniformly and at full market value. The agency is also authorized to establish appraisal methods for use statewide for special properties such as agricultural, or timberland. Further, the SPTB is authorized to assist appraisal districts by offering technical assistance, providing public information and uniform forms, developing standards for district operations, conducting performance audits of appraisal districts under certain circumstances and conducting or sponsoring courses on property tax administration. The agency also assumed several duties previously performed by the State Comptroller including appraising the intangible value of the assets of certain businesses, such as oil pipelines and railroads, and apportioning their value among the various counties in which the businesses operate for property tax purposes.

Policy-making Structure

The board is composed of six members, who are appointed by the governor with the advice and consent of the senate for staggered six year terms. The governor also designates one member of the board to serve as chairman. The statute requires that at least two members be active property tax professionals who are certified with the Board of Tax Professional Examiners.

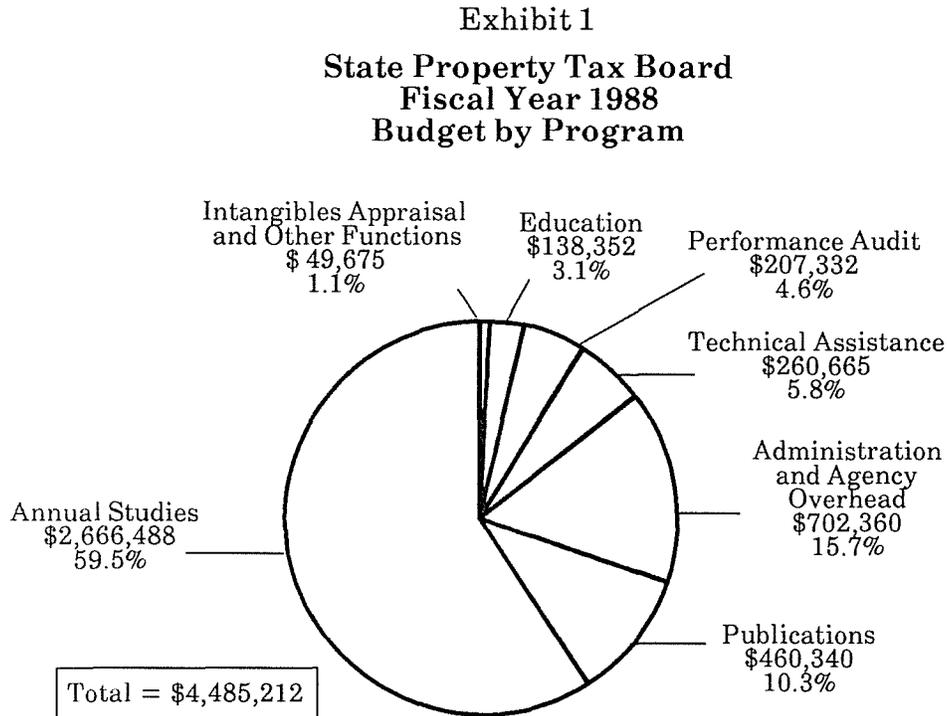
The duties of the board include the selection of the executive director, approval of the agency budget, and oversight of agency administration. The board also adopts rules and makes final decisions on appeals from school and appraisal districts regarding the annual studies conducted by the agency.

The part-time SPTB board is required to meet at least every calendar quarter. It has met in Austin five times in 1986 and 1987, respectively.

Funding and Organization

The agency has a fiscal year 1988 budget of approximately \$4.5 million. The agency's General Revenue Appropriation is \$4,247,880 and an additional \$207,332 is allocated by rider for the purpose of auditing the performance of appraisal districts in accordance with H.B. 354, passed by the 70th Legislature. The board is directed to reimburse the General Revenue Fund with all monies received from appraisal districts or property owners as reimbursement for the cost of conducting the performance audits. An additional \$30,000 in the 1988 budget reflects revenue of \$28,000 from publication sales in excess of the amount projected in the 1988 appropriation and \$2,000 in agency fees for issuing certificates of service on out-of-state delinquent taxpayers. Exhibit 1 analyzes the agency's budget for fiscal year 1988 by program.

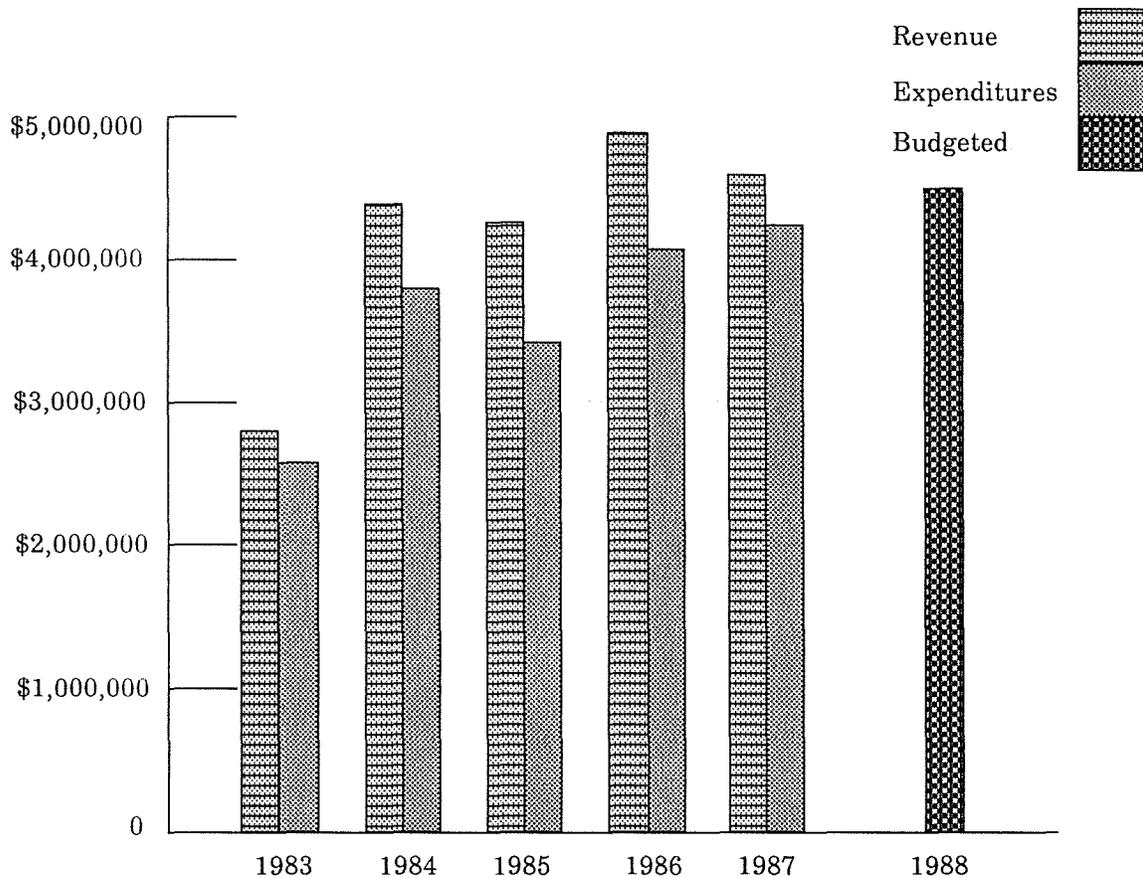
As Exhibit 1 shows, the largest portion of the agency's budget is allocated to the annual studies that determine school district property wealth and evaluate appraisal district performance. Also, 8.6 percent of the agency's budget is allocated to administrative costs, and 7.1 percent of the budget is allocated to agency overhead costs.



The agency's revenues come from four sources: General Revenue; two fee generating programs; and an interagency contract. For fiscal year 1988, the agency is appropriated approximately \$4.4 million from the General Revenue

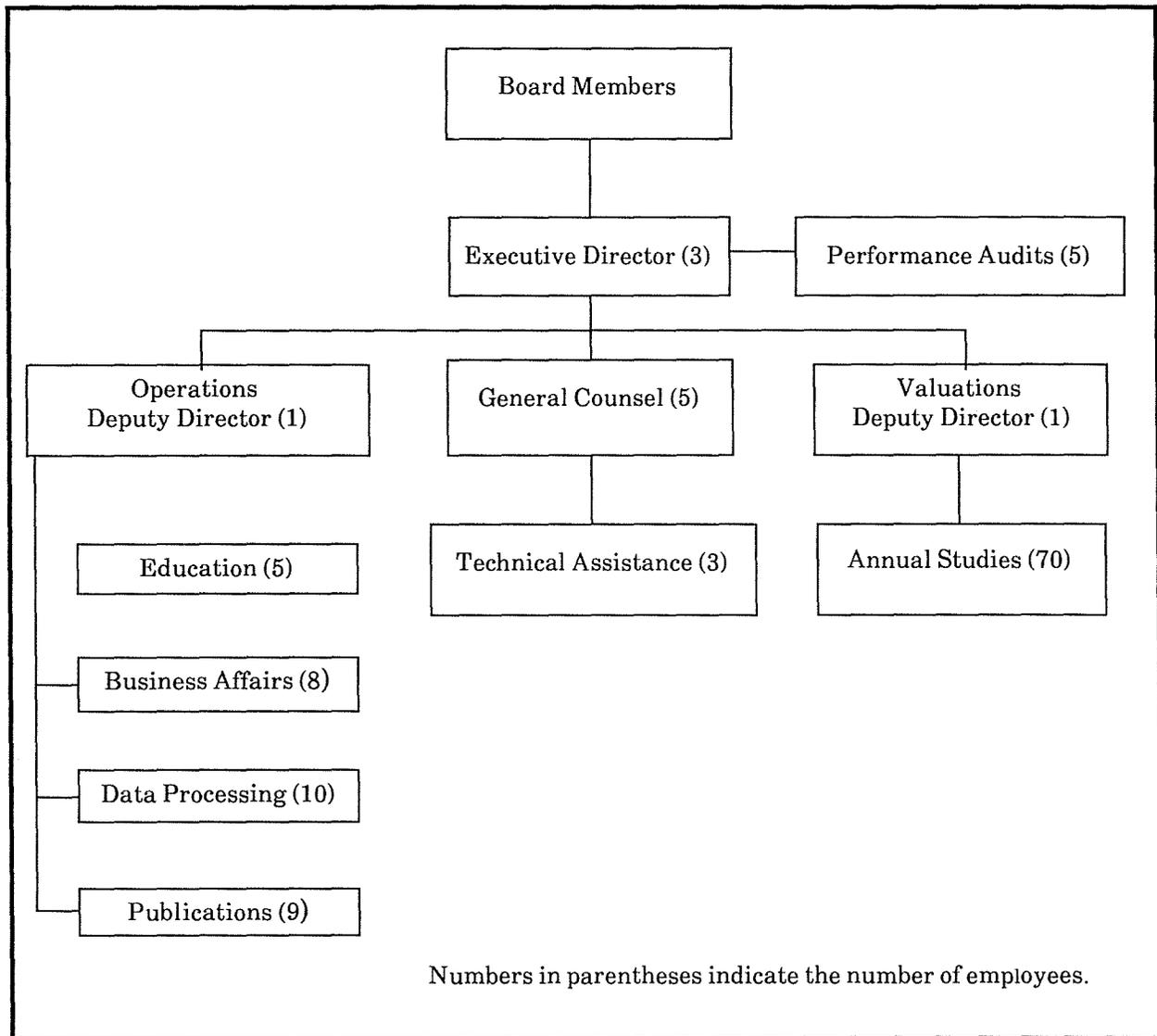
Fund. The largest source of fee generated funds is from sales of publications. Over \$65,000 per year is collected from this activity. Most of this is included in the agency's appropriation, but in 1988 it is expected that revenue will exceed the amount appropriated by about \$28,000. Another source is the interagency contract between the agency and the Board of Tax Professional Examiners (BTPE). The agency provides many administrative services for the BTPE. The projected revenue for 1988 from this contract is \$17,300. Finally, the agency collects fees for issuing certificates of service on out-of-state delinquent taxpayers. This duty will result in revenues of about \$3,000 in 1988. Total projected revenues for 1988 are estimated at \$4,512,021. Exhibit 2 analyzes the agency's revenues and expenditures since 1983 and generally reflects a gradual increase in both.

Exhibit 2
**State Property Tax Board
 Revenues and Expenditures**



The agency has 120 full-time employees in fiscal year 1988. Ninety employees work in the agency's headquarters in Austin. The other 30 employees are field appraisers, stationed in regions throughout the state. The agency does not maintain any regional offices and the field appraisers work out of their homes. Exhibit 3 shows the organizational structure of the agency.

Exhibit 3
State Property Tax Board
Plan of Organization



Programs and Functions

Annual Studies Program

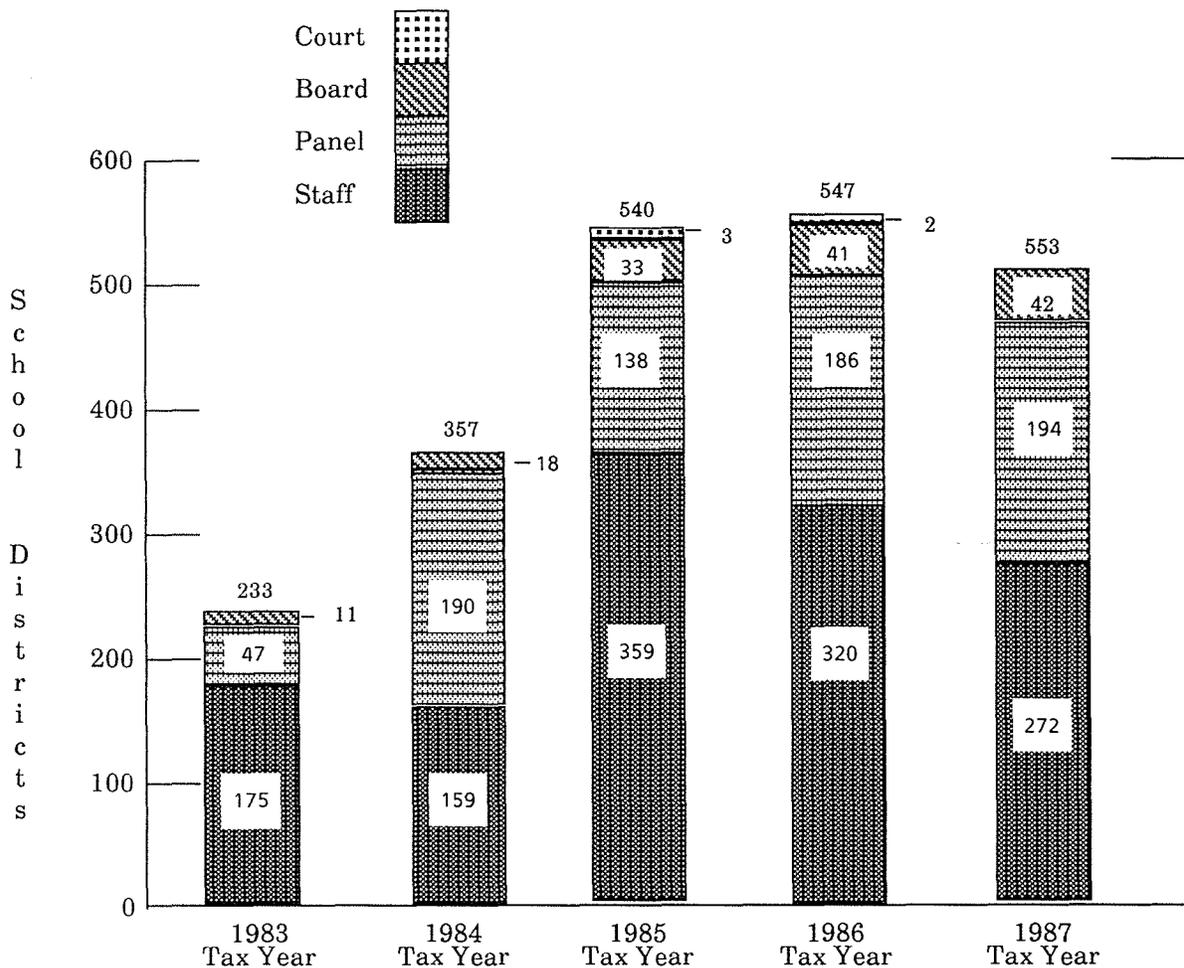
The SPTB is required by law to conduct two annual studies. Section 11.86 of the Texas Education Code requires the agency to conduct an annual property value study to estimate the total taxable value of each type of property within each school district. The value study estimates are used by the Texas Education Agency as a basis for distributing state education aid to school districts. The second study, the annual ratio study, determines the level and uniformity of property tax appraisals within each appraisal district.

Rather than appraising each item of taxable property in the state, the agency analyzes a sample of property from each district. The agency compares its appraisal, or estimate, of market value for each property in the sample to the value of the same property recorded in the appraisal district's rolls. Sales data is used in the agency's analysis as an indicator of market value, when available. Based on the comparisons, the agency determines the level and uniformity of local appraisals and the degree to which the reported local appraisal roll values should be adjusted to determine the total market value for property in the school district. The "level of appraisal" shows whether the appraisal district has appraised properties at full market value as required by law. This "level" is determined by calculating a median appraisal ratio which shows roughly how close appraisals are to market value. Since 1981, the statewide median level of appraisal of property has risen from 63 percent to 93 percent. Most districts are appraising at or above 80 percent of market value overall.

The "uniformity" of appraisals by an appraisal district must also be determined. Uniformity exists when similar properties are appraised at about the same appraisal level. For example, one piece of residential property may be identified as being at a level of appraisal which is 90 percent of market value. For uniformity to exist, all similar pieces of residential property must also be appraised at around 90 percent of market value. The agency calculates a coefficient of dispersion (COD) for each category of property to measure how much variability exists among appraisals. If the appraisal district has uniform appraisals, the COD will be small. A low COD indicates that an equitable tax burden exists even if the level of appraisal is less than 100 percent. The ratio study described above serves as a "report card" for appraisal districts. The same data is used for both the annual property value and the ratio studies. The agency uses 71 staff to conduct the studies.

The agency publishes a preliminary report of the findings of the two studies so that corrections can be made through an appeals process when necessary. The appeals process provides a system for school and appraisal districts to protest findings of the studies. Exhibit 4 shows the number of appeals that have been filed in the last four years and the level at which the appeals were resolved. In 1987, over half of the approximately 1,060 school districts protested their findings. Fifty-eight percent of these protests, however, were resolved by staff without a hearing process.

Exhibit 4
Trends in Annual Studies Appeals
Stage of Process Where Appeals Are Resolved



There are a series of activities which take place after a district files an intent to protest. First, the SPTB staff review all evidence submitted by the districts and make adjustments to appraisal ratios or market value estimates as appropriate. As mentioned above, a substantial number of protests are resolved through this informal process. If the agency cannot informally resolve the protest, it schedules a hearing before a three member appeals panel of appraisal experts. Appraisal districts and school districts who disagree with the panel's findings may protest the findings of the appeals panel to the SPTB board. All appeals must be resolved within 120 days of SPTB publishing its preliminary findings so that a final report can be certified to the Texas Education Agency (TEA) in accordance with the agency's statutory requirement.

Education Program

Section 5.04 of the Property Tax Code directs the agency to "conduct, sponsor, or approve courses of instruction and in-service and intern training programs on the technical, legal and administrative aspects of property taxation." The agency is also instructed to cooperate in developing curricula with other public agencies, educational institutions and private organizations.

Through its education program, the State Property Tax Board disseminates property tax information to tax professionals. The agency writes educational materials and textbooks for 11 courses which are taught by private entities such as the Texas Association of Assessing Officers, community colleges and businesses. Large central appraisal districts also offer SPTB courses.

There are several advantages to having the State Property Tax Board perform the education function described above. First, courses are standardized across the state so all tax professionals learn the same skills. In addition, the standardized exams help to ensure that all persons completing SPTB courses have in fact learned the same skills. There are five staff in the Education Division.

Publications Program

Most of the agency's publications are produced under requirements of state law. Section 5.05 of the Property Tax Code requires the agency to prepare and issue a general appraisal manual, special appraisal manuals, cost and depreciation schedules, news and reference bulletins, annotated digests of all laws relating to property taxation, and a handbook of all rules promulgated by the board. The monthly newsletter, "Statement", is sent to all tax professionals registered with BTPE and other interested persons. Most of the agency publications are printed by

the agency, in-house. Textbooks and workbooks developed by the agency for use in the professional certification courses are also printed through this program. In 1987, 12,000 textbooks and workbooks were distributed. In addition, this program develops and oversees the annual printing of a public information pamphlet titled "Taxpayer Rights, Remedies, and Responsibilities". Publication of this pamphlet is specifically required by the code. About a half million of these pamphlets are distributed each year. Due to the large volume required, these pamphlets are printed by outside contract. The Publications division handled 19,000 requests for publications in 1987. There are nine staff in this division.

Performance Audit Program

House Bill 354 of the 70th Legislature created a new performance audit duty for the SPTB. This bill established a process by which local taxing units and taxpayers can petition for a performance audit of their local appraisal district. That bill allows the petitioners to specify the type of audit to be done, requires the SPTB to conduct the audit, and requires the appraisal district to cooperate. The results are provided to the petitioners. The petitioners are required to pay for the cost of the audit.

Performance audits may be requested by either a majority of the appraisal district's taxing units or at least 10 percent of the property owners of a class of property that makes up at least 5 percent of the value of property in the appraisal district. The petitioners may specify that the SPTB conduct a general audit, an evaluation of appraisal practices, or an audit of any aspect of the operation of an appraisal district. The bill prohibits, however, a performance audit in the areas of financial or tax collection duties. The findings of a performance audit are reported to the petitioners, all taxing units, the chairman of the appraisal district board of directors, and the chief appraiser.

Under law, the SPTB is reimbursed for the costs of a performance audit. The appraisal district is required to pay the cost of performance audits that are requested by its taxing units. Property owners are responsible for the cost of the performance audits they request. However, taxpayers that petition for an audit can be reimbursed for the cost in two cases: 1) if the results confirm that the median level of appraisal for a class of property exceeds 110 percent; or 2) if the results confirm that the median level of appraisal for a category of property varies by more than 10 percent from the median level of all property in the district.

This program, which became effective on January 1, 1988, received an annual appropriation of \$207,332 for 1988 and 1989 respectively. Five full-time staff have been assigned to this function but, at the time of the review, there have not been any requests for performance audits. Rules have, however, been adopted to guide the operations of the program.

Technical Assistance

The agency is authorized by Section 5.08(b) of its statute to provide information, assistance, and legal interpretations of the Property Tax Code to taxpayers and property tax professionals. The staff responds to phone and written requests for information. The technical assistance program also collects and compiles data on the local property tax system. For example, counties report tax levy information to the agency. This information, along with other types of data on local operations, is compiled and published annually as required by Section 5.09 of the Property Tax Code. This program also compiles information regarding county indigent health expenditures for the Texas Department of Human Services (TDHS) for use in distributing indigent health care funds. There are eight employees in this division.

Other Functions

Counties are allowed to tax the intangible value of certain businesses such as oil pipelines and railroads. Property is considered to be intangible if it cannot be perceived by the senses. An example of intangible property is corporate stock. The Property Tax Code requires the SPTB to appraise these intangible values and apportion the value, for tax purposes, among the counties in which the businesses operate.

The agency also apportions railroad rolling stock values to counties, so that these values can be taxed. Rolling stock is railroad equipment such as freight cars which are transported across more than one county.

The Property Tax Code also requires the agency to render Permanent University Fund (PUF) lands to counties and represent the state on PUF value appeals. The PUF lands are state-owned properties for which county taxes must be paid. The renditions, which the agency prepares, basically list the property which is taxable, its location, and an estimate of the property's value.

Another function performed by the agency is acting as the agent for service on delinquent out-of-state taxpayers to assist in disposing of lawsuits against them.

This function is explained, in detail, in the Overall Administration section of this report.

Review of Operations

Focus of Review

Many issues related to property tax have been brought to the Texas Legislature in recent years. These issues range from property tax exemptions for certain types of property and groups of people, to a major restructuring of local tax administration. In the initial phase of the Sunset review of the State Property Tax Board (SPTB), many of these issues were examined for their relevance to the operations of the agency. The analysis indicated that some of these issues, while important to the local property tax system, had little association with the efficiency and effectiveness of the SPTB. For example, changing the qualifications for tax exemptions or the method of collecting taxes in each county has little bearing on the overall responsibility of the SPTB. However, issues such as the composition of the board and the need for sales information for the agency's annual studies were directly related to agency operations. Because of the numerous issues dealing with property tax and the specific mandate of the Sunset Commission, the review was focused on the agency's authority, its operations and changes that are needed to improve those operations.

The review of the agency's operations focused on four general areas: 1) whether there is still a need for the agency and its activities; and if so, 2) whether the policy-making structure fairly reflects the public and state interests; 3) whether the agency's management policies and procedures are consistent with accepted agency management practices; and 4) whether the agency meets the needs for which it was created in an efficient and effective manner.

Analysis indicated that there is still a need for the agency's services. The Texas Education Agency's allocation of state aid to local school districts depends on the findings of the board's annual property value study. In addition, the local property tax system depends on the SPTB for the annual ratio study, uniform appraisal standards, tax forms, public information material, professional training, and technical assistance. These services were found to be important to ensure statewide consistency in the operations of the local tax system.

Another question in looking at the need for the agency was whether the state's purposes were best served by the agency's status as an independent agency. Several bills introduced in the 70th legislative session dealt with a merger between the agency and the Board of Tax Professional Examiners. The Special Committee on the Organization of State Agencies is studying the issue of merging SPTB with the Comptroller's Office. That committee has held public hearings and still has this

option under consideration. While this possibility was initially considered in the sunset review, the fact that the interim committee had already begun work in this area, led to a focus in other areas.

The issue of merging the Board of Tax Professional Examiners with the SPTB was also initially considered in the sunset review. An analysis of the two agencies' administrative structures indicated that because of the degree to which the agencies share administrative costs, little if any savings would be available through such a merger. Further analysis of the responsibilities and policy-making structure of the two agencies indicated that there was a potential conflict in those responsibilities being carried out by one board. The only responsibility of the BTPE is the regulation of tax professionals. The primary responsibilities of the SPTB are to independently assess local taxable values and provide a report card on the fairness of local tax appraisals. Having the regulation of tax professionals performed by a board which is separate from the agency that provides the local report card appears to serve as an important safeguard to ensure the independence of those two state functions. Since no cost-savings potential was identified through such a merger, and there were no indications that the separate operations hamper the effectiveness of either agency, no recommendation for such a merger is made. The Board of Tax Professional Examiners is scheduled for sunset review in 1995. At that time, the issue should be reviewed again to determine if any benefits to a merger of the two agencies exist.

Policy-making Structure

The basic structure used in Texas to establish the policy body of an agency incorporates seven elements. First, the board should be structured to provide effective state oversight of the agency's activities. Second, the powers and duties of the board should be clearly defined, and should separate the board's policy role from the day-to-day management role of its staff. Third, the board should be of sufficient size to handle its workload and conduct its business efficiently. Fourth, there should be clear authority to seek advice through informed committees when this is necessary for making key policy and budgetary decisions. Fifth, the statute should specify qualifications for membership that are relevant to the commission's functions, but limit conflict of interest. Sixth, there should be a proper balance of experience and interest within the board's composition. Finally, there should be an effective means of selection and removal of members.

The governor appoints all board members with senate approval. He also designates the board chairman. This structure provides appropriate state oversight of agency operations. The agency's statute and rules set out a clear separation of board and staff duties. The six-member board is of adequate size to conduct its business.

The board does not have clear authority for appointing advisory committees, however, and the current qualifications for board members should be changed to guarantee a better balance between public members and experts on the board. The recommendations which follow address these concerns. Also, provisions for removal of board members do not currently exist in statute and are addressed in the sunset across-the-board recommendations which are located in the final chapter of this report.

Composition of the Board Should Be Modified

The statute requires that board members must have been a resident of Texas for at least 10 years and that at least two members must be certified as tax professionals by the Board of Tax Professional Examiners. The board's current composition consists of an attorney who serves as chairman, two county assessor-collectors, one chief appraiser who is also a county assessor-collector, one farmer/rancher, and a retired tax specialist from the oil industry. Recently, for an 18-month period, as many as four of the six members of the board have been county tax assessor-collectors or chief appraisers while concurrently serving on the board.

The review examined the composition of the board to determine if the statutory requirements are appropriate. The review found that the current statutory structure of the board does not ensure that the entities most affected by the board are represented. In addition, there is no guarantee that public members who do not have a substantial personal or professional interest in the agency's activities, are included. Defining the composition further in statute will ensure that a balance of experts, affected parties and public members exist on the board.

The composition of the board should be modified in statute to provide for the following members:

- **one chief appraiser of a central appraisal district;**
- **one school district superintendent;**
- **one county tax assessor-collector; and**
- **three public members that do not have the statutory qualifications of the other members .**

The board should, to the extent possible, include representatives from groups which are affected by the board's activities as well as representatives of the general public. The primary groups affected by the State Property Tax Board are chief appraisers, county tax assessor-collectors and school district superintendents. Chief appraisers are responsible for the appraisal of all property within an appraisal district and use agency guidelines and minimum standards for the administration and operation of appraisal districts. Appraisal districts are also affected by the agency's annual ratio study of the performance of appraisal district operations. County tax assessor-collectors are subject to rules developed by the agency and must calculate tax rates as set out in the Property Tax Code, which the agency administers. Both chief appraisers and county tax assessor-collectors take courses which are developed by the agency to fulfill professional certification requirements. Both are currently represented in the actual membership of the board. One major group affected by the agency that is not represented on the board is school district superintendents.

School districts are affected by the annual property value study which the agency conducts to determine the taxable value of property in each district. The study findings are used by the Texas Education Agency to allocate over \$5 billion to the school districts in state education aid each year.

The statute currently requires that at least two of the six members of the board be certified by the Board of Tax Professional Examiners. Chief appraisers and county tax assessor-collectors have been represented on the board, but a school district superintendent has never served on the board. Because there is no statutory requirement for these specific perspectives to be represented on the board, there is no assurance that each group will be represented in the future.

The review determined that the agency's statute should be amended to require that chief appraisers, county assessor-collectors and school superintendents are represented on the board. No inherent conflict of interest was found to exist within such a structure. Attorney General Opinion MW-450 specifically addresses the legality of a chief appraiser serving on the State Property Tax Board. That opinion holds that, because the board does not have authority to appoint or remove chief appraisers, and does not have enforcement power, no incompatibility of office exists. The opinion also points out that the appraisal district board of directors, not the chief appraiser, is responsible for implementing rules of the board. Therefore, the chief appraiser is not directly regulated by the board. In a similar manner, a county tax assessor-collector is publicly elected, rather than appointed by the board, and is not directly regulated by the agency. Finally, school district superintendents are not regulated by the board and there is not an inherent conflict of interest between the two positions.

State law provides that if an agency officer has a personal or private interest in any decision, he shall not vote or otherwise participate in the decision (Article 6252-9b, Sec. 6(a), V.A.C.S.). Whenever a board includes individuals whose activities may be affected by that board's decision, a potential exists for the board member to have a conflict of interest. The agency can help to protect against a board member voting on an issue when there is a potential conflict of interest by providing each new board member with an orientation on conflict of interest principles. This orientation should include providing the members with laws pertaining to conflict of interest and any language in the agency's statute which addresses conflict of interest. The sunset across-the-board recommendations include specific provisions relating to conflict of interest which, if adopted by the legislature, will become part of the agency's statute, and should be called to the attention of the board.

The review also determined that public members should be represented on the board to provide a balanced composition. Citizen participation on the board helps to protect and respond to the broader interests of the general public. Having public

members on the board also ensures that no single group is over-represented or comprises a majority on that board.

Authority to Appoint Advisory Committees Is Needed

The board is responsible for making a variety of decisions on technical and complex matters. It has used advisory committees to assist in the development of technical guidelines and rules. However, there are no statutory guidelines to assure that these advisory committees are appropriately structured and reimbursed for their assistance.

The board should be authorized to appoint advisory committees, as needed. The statute should provide general guidelines concerning their structure and operation.

The board is faced with many specialized and technical decisions. It must make final decisions on appeals from school and appraisal districts regarding the two annual studies, and establish a variety of property tax standards. These standards typically address complicated procedures such as local property tax administration, the appraisal of special property, formulas for allocation of the intangible value of certain businesses, and procedures for certifying appraisal rolls. The board has relied on experts in specialized areas in the past to assist in the development of technical guidelines and rules. For example, the board recently formed an ad hoc advisory committee to assist with the revision of the agency's manual for the appraisal of agricultural land. Experts in the agricultural field and chief appraisers served on the ad hoc committee. This enabled the agency to obtain practical advice in a specialized area and expedited the hearing process and adoption of the manual by the agency.

The use of ad hoc committees has been an efficient way to obtain advice. However, the agency is not currently authorized by law to appoint advisory committees. The lack of statutory guidance can result in inconsistent practices. Also, the board has no authority to reimburse advisory committee members for their expenses as provided for in the General Appropriations Act. In addition, assurances are needed that advisory committees will have a balanced composition.

Statutory authority to appoint advisory committees will provide authorization for a practice which the board already uses and also strengthen their practices. This authority should contain requirements which promote efficiency of the advisory committee and ensure a proper balance of public and private members. Such

requirements are found in the statutes of the Texas Department of Health and the Texas Department of Human Services. Accordingly, the statute should specify that the board appoint each advisory committee in a manner that provides for balanced representation of citizens of the state, persons affected by the subject, and experts in the field. On appointing a committee, the board should be required to define the committee's purpose, powers and duties, and the methods by which the committee should report to the board. The advisory committee members should receive no compensation but the agency would be authorized to reimburse members for expenses at the same rate set out for state employees in the General Appropriations Act. Finally, the board should adopt rules to implement this new authority. Defining the board's authority in statute should improve the ability to appoint useful committees that have balanced interests.

Overall Administration

The review of the agency's overall administration was designed to determine whether the management policies and procedures, the monitoring of management practices, and the reporting requirements of the agency were consistent with generally accepted practices for internal management of time, personnel, and funds. The results of the review led to the conclusion that the agency's management policies and procedures do fall within generally accepted standards. All reports required by the agency's statute are published in accordance with those requirements. In addition, the agency has documented internal policies which are, in general, consistent with those in other state agencies. Evaluations by the State Auditor's Office and Legislative Budget Office confirm these findings. However, a review of the agency's fee structure indicated one of the agency's fee programs recovers an unusually low proportion of the program's costs.

Fees for Serving Process Should be Modified

In the initial examination of the agency's administrative practices, the agency's fee structure was reviewed. The agency is currently authorized to collect fees for two services, property tax publications, and Certificates of Service. Certificates of Service document the agency's attempt to serve process, or provide official notice of the filing of a lawsuit on out-of-state property owners concerning delinquent property tax lawsuits. The Publications function is a major one, while the Certificate of Service function is a very small activity of the agency and involves no full-time staff. The fees for both functions were evaluated to determine whether they were set at a level that is consistent with state law and other state agency practices, and whether they recover an appropriate amount of agency costs. While the current fee structure for publications appears to be consistent with other state agency publications fee recovery structures, the Certificate of Service fees produce insufficient revenue and should be changed.

According to Section 17.091 of the Texas Civil Practices and Remedies Code, the executive director of the SPTB is the agent for service in delinquent property tax lawsuits involving out-of-state taxpayers. In practice, this means that when a local taxing unit files suit against a delinquent taxpayer who is out-of-state, the unit serves process on the executive director of the SPTB. The SPTB is then responsible for serving process, by mail, on the out-of-state taxpayer. If the case eventually goes to court, the taxing unit can request a Certificate of Service to present as evidence that the defendant was served notice of the case. The SPTB is authorized to charge a

\$25 fee for issuing a Certificate of Service. A fee is not authorized however, in cases where no certificate is requested.

Fees for the agency's services regarding notice to out-of-state delinquent taxpayers of pending lawsuits should be changed to match those of the Secretary of State. The statute for the SPTB would thus:

- **Authorize a new \$25 fee for maintaining a record of service of process; and**
- **Reduce the fee for a certificate of service from \$25 to \$10.**

The authority for the SPTB's process serving activity, and the fee, are the same as those in statute for the State Highway and Public Transportation Commission. The commission is responsible for serving process on non-residents in lawsuits involving vehicle collisions. The Secretary of State has similar authority for serving process on people and corporations who are out-of-state but are defendants in most other Texas lawsuits. Its authority is extensive, involving approximately 25 separate statutes concerning various types of suits. The Secretary of State's authority is also more extensive in the types of fees that can be charged than that provided to the SPTB and the Highway Commission. As the chart below indicates, the SPTB and the Commission have no authority to charge a fee for maintaining a record of process. However, the Secretary of State is authorized to charge \$25 per case for record maintenance. While the SPTB and the Highway Commission are authorized to charge a \$25 fee for a Certificate of Service, the Secretary of State is only authorized to charge \$10.

Type of Fee	SPTB and Highway Commission	Secretary of State
Record Maintenance Fee	Not Authorized	\$25
Certificate of Service Fee	\$25	\$10

Of the 544 cases handled by the SPTB, in fiscal year 1987, only 90 resulted in requests for Certificates of Service. This means that in the vast majority of the cases, the SPTB received no fee for its activity. One reason for so few certificate requests is that most delinquent property tax lawsuits are resolved before trial. However, in all cases, the SPTB must notify the out-of-state defendant, maintain a record of agency

actions, and send follow-up correspondence to attorneys, regardless of whether an actual fee-associated certificate is requested.

The fee for SPTB's process serving activities was examined to determine whether the SPTB's activities and cost recovery rate were consistent with those of the Highway Commission and the Secretary of State. The process serving activities were found to be very similar in the three agencies. However, the fee recovery rates differ substantially in the three agencies as the chart below indicates.

	<u>Processes Served</u>		<u>Certificates of Service Requested</u>		<u>Total Fee Collected Per Case Handled</u>
	<u>Number</u>	<u>Fees Collected</u>	<u>Number</u>	<u>Fees Collected</u>	
State Property Tax Board	544	No Fee Authorized	90	\$ 2,250	\$.25
State Highway Commission	1,049	No Fee Authorized	589	\$14,675	\$13.99
Secretary of State	5,465	\$185,450	16,040	\$95,585	\$18.04

Two important differences were identified as contributing to the varied rates: the percent of cases in which a fee is assessed; and the actual type of fees that are authorized. First, a much smaller percent of SPTB cases result in fee assessment in comparison to cases handled by the Highway Commission and Secretary of State. Only 20 percent of the SPTB cases in 1987 had fee-associated certificates requested, whereas approximately 56 percent of the cases handled by the Highway Commission required a fee-associated certificate. Nearly all cases handled by the Secretary of State required certificates and, in fact, more certificates were requested than cases handled in 1987 because many certificates were requested for cases handled in previous years. Second, the Secretary of State is authorized to charge a \$25 records maintenance fee on all the cases it handles. As pointed out earlier, the SPTB does not have the authority to charge this type of fee. This combination of fewer fee-associated certificates requested and more limited fee authority has resulted in the SPTB recovering a smaller proportion of its costs for this activity through fees than do the two agencies used in the comparison.

The unusually low cost recovery rate generated by the SPTB fee structure is not appropriate and should be changed. The fee structure authorized for the Secretary of State, which provides for a fee on all cases, would better address cost recovery needs than the current fee authority of the SPTB. Therefore, the SPTB

should be given authority for a fee structure that parallels that of the Secretary of State. This will mean that taxing units will pay a \$25 Record Maintenance Fee on each case when process is served on the SPTB. If a Certificate of Service is also requested to document the SPTB's attempt to serve process, an additional \$10 will be required at the time of the request. If the proposed fee structure had been applied in fiscal year 1987, the revenue for this activity would have been \$14,500 instead of the \$2,250 which was collected that year under the existing fee structure. The agency estimates that its actual direct cost for the activity in 1987 was \$11,400.

Evaluation of Programs

The evaluation of the agency's programs focused on its four major programs: education, publications, the annual studies and performance audit. Each program was reviewed to determine whether a continued need exists for the program, whether the program is operated in compliance with the agency's statutory authority, and whether it operates in an efficient and effective manner. The analysis of the education and publications programs indicated that there is a continued need for these services and that they are operated satisfactorily. Conclusions from the review of these programs are set out below.

EDUCATION PROGRAM

Each year, approximately 5,000 tax professionals enroll in courses developed by the SPTB education program. These courses are required for state certification through the Board of Tax Professional Examiners. The review indicated that the program operates in a way that helps minimize state resources necessary to support the program. Instead of employing instructors and conducting the courses in-house, the agency writes the text and exams, trains and approves the instructors, approves course arrangements, and grades the completed tests. Individual instructors are responsible for making the physical arrangements for, and conducting, the courses. Currently 173 instructors are certified to teach SPTB courses, and in 1987, they held 225 classes. No changes are recommended for this program.

PUBLICATION PROGRAM

The publications program was also found to serve as a valuable resource to both tax professionals and taxpayers. Its development and printing of technical manuals, tax forms, and a monthly newsletter has been important in standardizing local tax administration practices throughout the state. Each year, the program produces approximately one million publications. This program also responds to requests from the media for public information material concerning local property tax administration. The program averages 12,000 media requests each year. No changes are recommended for this program.

The review of the rest of the agency's programs indicated that improvements could be made in the program that produces the annual value and ratio studies and in the agency's performance audit program. These areas are discussed in the material that follows.

ANNUAL STUDIES PROGRAM

The main activity of the agency is the completion of two annual studies. Each year, the agency performs a ratio study of the level and uniformity of appraisals within appraisal districts. With the same data, the agency also performs a property value study to determine the total taxable value of property in each school district. Both studies are performed simultaneously using the same data but analyzing it in different ways. During the review of this program, the studies were analyzed to determine the continued need for the studies, the overall methodology used, agency oversight of study accuracy, access to needed data and the appeal procedures in place to correct errors in the study findings.

To guide the analysis, national standards issued by the International Association of Assessing Officers (IAAO) were used as well as published information on similar studies conducted in other states. A phone survey of 30 states was also conducted to gather more detailed and timely information. Since similar studies have been conducted in the appraisal community since the late 1800's, and are currently conducted in 45 of the 50 states, there is a wealth of information that can be used for comparison.

In evaluating the methodology of a statistical study, it is important to clearly identify the purpose for which the results are used and the degree of accurate and specific results that are needed. For example, a public opinion survey should probably not devote as many resources to the study to ensure accuracy as a study examining whether a chemical causes cancer in humans. While both of the SPTB studies use the same comparative data, the findings of the two SPTB studies are used for different purposes.

The purpose of the annual property value study is to estimate the total taxable value in each school district in Texas. The value estimated is then used as a major component in the formulas that determine the amount of state aid for each school district and the local share of funding for which each school district is responsible.

Texas began determining local property values at the state level for its use in funding local school districts in 1977. For many years, state aid to Texas school districts has been determined partly on local taxable property wealth. Prior to 1977, each school district determined its own property wealth for school funding. This led to inconsistency from one school district to another on how wealth was reported. Some districts set their property values low, thereby inappropriately increasing the amount of state funding their district received. This inconsistent reporting of wealth

caused an unfair distribution of state aid from one school district to another. State assignment of the local property values helped to alleviate this problem.

The findings of the annual school district value study and the annual appraisal district ratio study are of significant importance. The school district value study is used to determine how a major source of funding for schools is distributed. Over \$5 billion in state aid to public schools is directed to individual school districts each year based on the findings of this study. Local property value estimates, as well as information generated by the agency on the tax base in each school district, are also used by TEA extensively in research.

The purpose of the annual ratio study is to provide a "report card" on the appraisal activities of each appraisal district. Texas law requires that appraisals for property tax purposes be "equal, uniform, and at market value". The ratio study examines compliance with these requirements by two statutory criteria: 1) the median level of appraisal which shows how close, generally, property is appraised to its full market value; and 2) the coefficient of dispersion which tests the degree to which appraisals are uniform within the district. For example, if an appraisal district has a median level of appraisal of .90 it means that half of all property in the district is appraised above 90 percent of its actual market value and half is appraised at a value which is lower than 90 percent of value. If that district had a coefficient of dispersion of 10 percent it would mean that the average deviation from the median is 10 percent.

The appraisal districts' report card is used by local policy-makers as an indicator of the effectiveness of the appraisal district. The findings are also used by local taxpayers who use ratio study findings to protest their appraisal on the basis of unequal appraisals within the district. The study's determination of the median level of appraisal within the district can be used in an appeal to show that the protested value is higher than the usual appraisal in the district. State law provides that if an individual property's appraisal level is at least 10 percent higher than the median level of appraisal within the district, the district court can order the appraisal district to change the property's value to parallel the median.

Having this type of report card on local appraisal methods is one of the most important changes to local tax administration in recent years. Before this information became available, the local political process occasionally resulted in one type of property carrying a larger tax burden in an area than another category. For example, appraising industrial properties at a higher level than residential properties, and assessing both the same tax rate, would result in industry paying

more than its share of local taxes. Prior to the ratio studies, it was very costly for local taxpayers to develop evidence of such unfair practices. The annual ratio study, therefore, is a "check and balance" tool at the local level. In order for this tool to serve its purpose, the information in the study should be as accurate as possible.

Because substantial funding is distributed based on the findings of the study, the agency has recognized the importance of achieving the most accurate study data possible within its fiscal limitations. To accomplish this, the agency has a system under development by which it can begin to assess the accuracy of the study results. Oil, utilities and mineral properties are not included in this particular assessment. For each other category of property sampled in each school district, the agency has identified the number of properties sampled and an estimated confidence level for that sample. The confidence level is one measure used to estimate how likely it is that a given sample represents the universe it is intended to represent. Generally, a study's accuracy and the confidence level of the sample improves as a sample size increases. In other words, usually, the higher the confidence level of a sample, the more assurance there is that the study will be accurate.

The review found that 12 other states use confidence levels to assess the accuracy of their property value studies. Eleven of these states have set a goal of 95 percent (plus or minus five percent) as a confidence level for each sample they draw. Three states have indicated that they attain this goal in most of their study samples.

The SPTB's use of a system which estimates confidence levels enables them to direct their field appraisers to increase appraisals in certain areas and reduce appraisals in other areas to avoid over-sampling. This system is still under development, however. It is difficult, therefore, to draw definitive conclusions about the accuracy of the property value study in Texas. In addition, the agency is limited by the funding available to conduct the study and this precludes their ability to guarantee a 95 percent confidence level for every category sample they draw. The SPTB also lacks an advantage which is available in some other states--the full access to sales data which could supplement the appraisals done by the agency, and increase the sample size.

The review examined the data which the agency is developing, recognizing its limitations. Overall, according to data currently available, 55 percent of the category samples examined were of a size that provided less than a 70 percent probability that the sample would represent the universe it was intended to represent within five percent. This finding cannot be used to suggest that the estimates in the property value study conducted by the agency are inaccurate. The

study's accuracy depends, in large part, on how accurately the agency's field appraisers appraise the properties they do sample and the expertise and degree of judgment used as samples are selected. The finding does suggest, however, that the assurance of the study's accuracy could be increased if confidence levels improve and sample sizes increase, at least in some categories.

Because of the considerable funds which are distributed based on the property value study, it is necessary to identify the best possible methods for conducting the study and collect as much data as possible to ensure results of a high quality. In a state the size of Texas, it is not financially possible or necessary to appraise all of the property in the state. The agency's budget and the availability of sales data to supplement the study sample will ultimately determine the quantity of appraisals that can be conducted for use in the study. The recommendations which follow provide economically feasible suggestions for addressing the needs discussed above.

Information on the Sale of Real Property Would Improve Study Accuracy

As mentioned earlier, one limitation faced by the agency in attempting to expand its study sample is a lack of several important types of information. The findings of the two studies are based on comparisons of state assessed and locally assessed market values on approximately 175,000 individual properties throughout the state. Despite the apparent large number of properties examined, information on more properties is needed to ensure that the findings of the study reflect as closely as is reasonably possible the actual market value of property in each school district throughout the state. Some states base the entire study on sales information gained through such disclosure. Routine disclosure of information on the sale of real property could greatly increase the number of properties that the SPTB can test within its current resources. A recommended improvement in this area is described below.

Information on the sale of real property including the selling price should be reported to the property tax system for use in appraisal.

Sales information is considered essential in the appraisal process, especially in mass appraisal systems. A lack of sales information results in less accurate appraisal values and higher costs associated with obtaining market information. Although mandatory disclosure is common in other states, in Texas, the sales information can only be obtained when voluntarily disclosed by the property owner.

This provides the appraiser with limited and inconsistent information. Since there is not a set format or a given set of items the property owners must disclose, adequate information may not be provided for the sale to be used by the appraiser.

Sales information is used by local appraisal districts and the SPTB in determining a property's value. Property value is determined through an appraisal which is an estimate of the price a property would sell for in the open market; therefore, information on the recent sale of property is essential. In Texas, the agency and many appraisal districts appraise property using a mass appraisal system. Mass appraisal is a process of valuing a large number of properties using standardized procedures. These procedures usually include the use of cost schedules for each category of property which are used by the appraiser to determine the value of the property. Sales information is necessary in the mass appraisal process for two reasons. First, it is used to build cost schedules and schedule modifiers to use in appraising property. Second, it is used to compare to appraisals to determine the accuracy of appraisal.

Both appraisal districts and the SPTB personnel spend considerable resources to obtain sales information through various methods. Many appraisal districts subscribe to listing services, such as the Multiple Listing Service, which provide information on sales made by the realtors who are members of the service. The cost of this service varies throughout the state. In addition, both appraisal district and SPTB personnel research sales by going through warranty deeds in the county clerk's office. These methods are time consuming and costly. Additionally, the information must be checked to confirm the terms of the sale because, in order for a sale to be legitimately used for appraisal purposes it must be an "arm's-length sale." An arm's-length sale is a sale that occurred at the property's true market value. Transactions which cannot generally be used to determine market value are gifts, sales between family members, sales as the result of a foreclosure, or sales as the result of a divorce.

In other states, sales information is made available through sales disclosure laws. Forty of the 50 states currently have some type of mandatory disclosure law under which sales information can be obtained. There are two concerns with the way these laws are set up. First, in many states the information is public record, allowing a prospective buyer to know the price the seller originally paid for the property. The second concern is that in some states, a fee or tax is associated with these laws. The tax is based on the value of the property in many states. In order to pay the correct amount of tax, the sales information must be disclosed. Analysis of

requirements in other states indicate that it is possible to require the information, protect privacy, and avoid imposing a tax.

The information gained through mandatory disclosure in other states greatly aids the appraisal of property by state and local officials. This information is obtained either by reviewing the transfer documents, such as deeds, that have the information attached to them, or reviewing forms that are filed separately from the transfer document that have the same information.

Using a separate form allows the information to be confidential, since it is not attached to the document that is recorded. These forms are often confined to one page and consist of a series of boxes to check and blanks to fill in. The extent of the information required is generally confined to the following items:

- The name and address of the buyer and seller;
- the date of transfer;
- the legal description, address, and parcel identifier of the property;
- the type of real estate, such as residential or commercial;
- the type of transfer, such as a gift, to determine if the sale is an arm's-length transaction;
- the full consideration involved;
- the type of financing, such as VA or FHA;
- the amount of personal property transferred;
- the listing of other interests transferred or limited, such as mineral rights, water rights, or easements; and
- the type of deed, such as a warranty deed, a contract of sale, or a quitclaim.

These items are all necessary for the appraiser to determine if the sale is an arm's-length sale, identify the property that was transferred, and the price paid for the property. In addition, name and address information are used to ensure that tax bills are delivered to the correct person at the correct address in a timely manner. The information described above is recognized by the IAAO and the American Bar Association as necessary in a sales disclosure requirement to provide the appraiser with adequate information to effectively carry out his duties.

In Texas, a statutory provision should be established to require disclosure of sales information for use in appraisal. The process of disclosure should follow a pattern that has been useful in some states, but address the concerns previously identified. In Texas, the process will include: requiring the purchaser to file a form

with the county clerk when the transfer document is filed; and requiring the county clerk to forward the forms collected to the appraisal district. The SPTB should develop the format of the form within statutory guidelines. The appraisal district would use and maintain the forms. The SPTB should be authorized to have access to these forms.

If this change is adopted, local districts will be able to reduce costs through more efficient and accurate appraisal. Also, a significantly larger sample of property can be used in the annual study thereby increasing the accuracy of the agency's findings. Access to the sales information would significantly reduce the cost incurred by the SPTB for each parcel sampled for the study. The SPTB estimates that its current cost of collecting sales is one-tenth the cost of conducting appraisals. The savings could be used to obtain additional appraisals where sales did not occur. The amount of savings to appraisal districts is a function of their size and current expenditures, but is estimated to be significant. An added benefit of the increased use of sales information may be a reduction in the number of local property value appeals that occur.

Access to Income-Producing Property for Appraisal Is Needed

While the SPTB can often appraise a property's market value from information it can gather from outside sources, physical inspection of the property is sometimes necessary. This is particularly true of the more complex income-producing properties, such as commercial and industrial property. A useful provision exists in state law which allows local appraisal districts to enter such property for appraisal purposes. However, these provisions do not extend to the SPTB.

The State Property Tax Board should be authorized to enter income-producing property to inspect it for appraisal purposes.

The SPTB estimates that it is denied access to industrial property ten percent of the time, and to commercial property even more frequently. In 1986, the combined values of commercial and industrial property comprised one-third of the state's taxable property value. Denial of SPTB personnel to enter commercial and industrial property decreases the accuracy of appraisal of this major component of the tax base. This is particularly true for personal property, consisting of movable machinery, equipment, furniture, fixtures and inventory. The correct square footage of the property, the quality and density of inventory, and the degree of depreciation

must be accurately determined by the appraiser to reach a valid estimate of market value. All of these determinations are usually made by physically inspecting the property.

Not only does the inability to enter and inspect property limit the accuracy of the appraisal, but being unable to complete an appraisal at a given time increases the cost of the appraisal by requiring an appraiser to make return visits in an attempt to gain voluntary entry. Repeated visits to a property in attempt to gain access is time consuming. The time spent on repeated visits could be used to appraise other properties in the area to increase the sample size of the study.

Providing the SPTB with the same authority already given to local appraisal districts would eliminate this problem. The current inspection provisions for appraisal districts extend only to income-producing property and require that inspections be done during normal business hours or at a time mutually agreed upon by the appraiser and the person in control of the premises. This requirement would also be applied to the SPTB's authority to inspect.

Access to Uniform Appraisal Rolls Would Increase Study Accuracy

Section 26.01 of the Property Tax Code requires chief appraisers to submit an appraisal roll for county taxes to a county assessor-collector. The chief appraiser must also certify the roll to the State Property Tax Board. The statute, however, allows the agency to require by rule that only a summary of the appraisal roll be provided. The statute also requires the summary to be provided in the form and manner prescribed by the board's rule. The agency currently requires that only a summary of the roll be provided.

The SPTB should continue to work with appraisal districts to set the format for appraisal rolls and require their submission to the agency.

An appraisal roll is a listing of all taxable property in an appraisal district and the values for that property. Information such as account number, legal description, the school district in which the property is located, the value of the property and whether the property qualifies for a residence homestead exemption or other exemptions is included in the roll.

In October of 1987, staff of the agency submitted proposed rules to the board which would require submission of the complete appraisal roll. After testimony from chief appraisers opposing adoption of the rule, the board postponed action and

appointed an ad hoc committee to study the issue. The committee consists of appraisal district personnel, a representative of the County Judge's Association and agency staff. At the time of the review, no rules have been adopted requiring submission of complete appraisal rolls.

The review determined that a need exists for the SPTB to have the appraisal rolls available and that the current efforts to implement the agency's existing statutory authority are reasonable and important. There are many advantages to the agency having complete appraisal rolls available for each district. First, complete appraisal rolls would allow the agency to select a representative and random sample for the studies without having to go directly to the appraisal district office and examine the roll on-site. Having the rolls submitted to SPTB would also mean that the field appraisers, who now must manually copy information from the rolls while on-site, would no longer be at risk of making clerical errors.

The agency could also use the roll to verify that information submitted by appraisal districts or school districts during the appeals process is accurate. The roll could also be used for audit purposes to verify that the total taxable value for each category reported by the appraisal district is accurate. This is particularly important as a check and balance tool in preparing the annual property value report which is submitted to the Texas Education Agency (TEA). Although the agency independently arrives at a weighted mean ratio by which it gauges how close to market value a district's appraisals are, the agency currently must "trust" the figure of total taxable value to which the ratio is applied.

Some appraisal districts expressed concern that the cost of providing an appraisal roll in a format specified by the agency could be excessive. Chief appraisers who were asked what the cost of providing the roll would be to the appraisal district were unable to provide an estimate of these additional costs at the time of the review. One appraiser whose district was computerized speculated that the cost would be in the range of \$200. Another concern expressed was that the agency might require information that is not already included in the district's existing appraisal roll format, such as the square footage of the property. Many districts do not computerize such information. A third concern was that such information needs to be kept confidential. Finally, districts without computers may not be able to meet the specifications.

The ad hoc committee met to discuss these concerns and make revisions to the proposed rules. The revisions proposed include requiring only a summary of the roll until the 1990 tax year, omitting the name of the property owner to ensure

confidentiality, limiting the information which must be provided for each parcel or account and including waiver provisions designed to prevent the rule from creating hardships for appraisal districts unable to comply with the rule. A pilot project is planned in which several appraisal districts will submit the rolls to the agency in the format proposed by the agency. The agency will then process the data to conduct a "test" property value study and ratio study. This project should enable the agency to develop a workable system before all 253 appraisal districts submit their appraisal rolls in 1990.

In summary, having the appraisal rolls submitted to the agency is an important step in improving the agency's access to information needed to improve the accuracy of the studies. Safeguards are being pursued to prevent the requirement from imposing a burden on appraisal districts. The agency should continue its communications with appraisal districts and submit proposed rules on this requirement for board consideration after completion of the planned pilot project.

Information Considered in Appeals Should Be Expanded

Appeals processes, in general, act as a safeguard against the consequences of inaccurate government findings. The right to appeal actions by an agency is routinely provided by statute. The SPTB provides appraisal districts and school districts with a process by which to appeal the findings of the annual studies. This process helps to improve the accuracy of the findings of the studies by bringing incorrect findings to the attention of the SPTB. In the last four years, however, appeals have increased 50 percent. In each of the past two years, over half of all school districts protested the findings of the studies.

To ensure that inaccurate findings of the two SPTB annual studies are identified and corrected, all pertinent and available information which assesses the accuracy of the findings should be available in the review of an appeal. Strengthening the ability of the SPTB appeals process to identify and correct inaccurate findings should improve the studies.

Information on the statistical accuracy of study findings under appeal should be routinely provided to the appeals panel and SPTB board for consideration.

The primary purpose of an appeals process is to provide a safety net to ensure that inaccurate findings of an agency can be identified and corrected. Because of the

important uses of the findings of the two annual studies, it is critical that any inaccuracies in those findings be identified and corrected.

The SPTB has established a three-tiered process to review appeals. When an appeal is submitted, it is first reviewed by staff. Many appeals concern clerical errors and can be resolved without a hearing. The agency's staff works with the appealing district to make mutually acceptable changes. On the 1987 value study, 54 percent of all school district protests were resolved by staff through this informal process. For those appeals that cannot be resolved by staff, hearings are scheduled with a board-appointed panel of appraisal experts called the appeals panel. These hearings review written evidence submitted by the districts, and SPTB staff, and some oral testimony. Appraisal and school districts who are dissatisfied with the decision of the appeals panel may take their appeal further to the SPTB board. Because a large portion of state aid to local schools depends on accurate findings, school districts also have the right to appeal a SPTB board decision to district court.

The information considered in the appeals process was reviewed to determine whether adequate information is available to assess the protests. In general, all information that is pertinent to the accuracy of a protested finding of a state agency should be available in considering an appeal of that finding. This standard is particularly important with regard to protests of the findings of the studies because equitable school funding depends on their accuracy.

The findings of the studies are based on two main activities, appraisal and statistics. In the appeals process, districts are responsible for identifying appraised values which are incorrect. They are well qualified for this assessment and in most cases, have ample information to make this determination. However, measures of the statistical accuracy of the findings require information about SPTB methods that is not available to districts. Therefore, districts cannot be expected to bring information to the panel or board concerning the statistical accuracy of the findings. The sunset review of the methods used in the studies indicated that the estimated value of property in some school districts was based on limited information and therefore, the statistical accuracy of the study was uncertain. Since the studies' findings can be affected greatly by the statistics used to develop them, information concerning statistical accuracy is pertinent and necessary to adequately evaluate an appeal. Such information should be made available to the appeals panel and the SPTB board to ensure that findings that are questionable or incorrect can be identified and corrected.

Technical Advice on Study Methodology Will Assist Agency

State aid to local school districts is based to a large extent on the findings of the annual studies. Because of the large amount of state funds involved, it is appropriate for decision makers to have technical information concerning the quality and methods used to develop those findings. However, this kind of information is not currently reviewed by the agency board. Discussions with agency staff indicated that while they have identified statistical limitations on the accuracy of the studies, these specific limitations have not been reviewed with the agency board. Creating a mechanism for the agency's board to review study methods with experts in the field, on a periodic basis, will ensure that limitations on study accuracy can be minimized. In addition, such participation can identify agency resources which are needed, or additional authority which is necessary, and make recommendations as to these changes.

The SPTB should establish a technical advisory committee. The committee should review the methodology of the studies, submit an annual report to the board on its findings and advise the board on study methodology.

The methods used for review of the studies' methodology were examined to determine whether they provide policy-makers the information necessary to adequately assess the quality of the findings and resolve problems when improvements are needed. This expertise is particularly important with regard to these studies because the findings are a major determinant of how over \$5 billion in state aid is distributed to Texas schools.

The review found that no specific agency staff, other than management staff, are responsible for the study methodology. The agency contracts with a statistician to assist with study methodology and certain agency staff are familiar with statistical principles. The agency is attempting to develop additional data to enable them to assess the accuracy of the studies. Most decisions concerning study methods are left to agency staff. In addition, information on the accuracy of the studies should be readily available to agency policy makers to apprise them of the study's quality and to other state decision-makers to help them weigh the implications of any proposed funding and policy changes.

To provide the agency with additional input on study methods, the agency's board should appoint a technical advisory committee to review and comment on

study methodology on an ongoing basis. This committee should be structured in a manner that provides the expertise and perspective to ensure that the methods used in the studies and the results of using the methods are fully explored. This committee will provide a valuable resource to help ensure the accuracy of the study. In addition, participation by the entities that are affected by the findings will ensure that the study methods are efficient and reasonable.

The technical advisory committee should be structured in statute to clarify the committee's responsibilities and ensure that a balance of public and private individuals knowledgeable in this field are included. Committee members must have the expertise and background that will enable them to review and make recommendations on the methodology used in the studies. The duties of the committee should include reviewing the methodology of the studies, submitting an annual report to the board on its findings, and advising the board and the staff concerning study methodology. The committee should meet at least quarterly and members should be reimbursed for travel and per diem expenses at the rate set in the General Appropriations Act. The committee's annual report to the SPTB board should be available to the public.

PERFORMANCE AUDIT PROGRAM

The 70th Legislature established the performance audit program as a mechanism to review the operations of appraisal districts whose practices are questioned by local officials or taxpayers. Texas law has considered property tax administration a local issue for many years. Therefore, the provisions clearly place the authority to request the audit, specify its scope, and follow through on the findings of the audit with the local area. To do this, the provisions require that before an audit is initiated a petition must be filed by a specified portion of taxpayers or taxing units in the district, that the petitioners specify the scope of the audit and that the results of the audit be provided to the petitioners and local officials. Although the State Property Tax Board is required to conduct the specified audit, there are no provisions to initiate an audit without a petition nor is there any authority for the state to follow-up on the findings of the audit.

The evaluation of this program focused on two areas: whether such provisions are needed and whether there are alternatives to the current method established to implement the program. The analysis indicated that performance audits do provide a useful assessment of appraisal district performance and can be used to identify inappropriate or unfair practices. However, the review indicated that there is an

alternative to the current method which has certain benefits and will ensure that audits are conducted if a district performs below acceptable levels in its appraisal practices. These findings, along with recommended changes to improve the program, are explained below.

Performance Audit Provisions Should be Modified

The current statutory provision addresses the need for performance audits of districts whose appraisal practices are suspect. However, three problems were noted with the current petition-based performance audit provisions. First, developing a petition is difficult for local officials and taxpayers. Second, providing performance audits only on request does not provide a consistent workload for a state agency. Also, because no audit is conducted unless a petition is filed, there is no assurance that poor appraisal practices are reviewed. Because of these problems, alternatives to the current petition-triggered audit program were examined. An alternative was identified which restructures the current provision to strengthen and streamline the approach. This alternative is described below.

The performance audit requirements should be modified to require a district to have an independent performance audit of its operations conducted if the annual ratio study indicates that the district's appraisals are not reasonably uniform or close to market value for four consecutive years.

State law sets out a process to examine and report on the appraisal practices of appraisal districts in the state. This mechanism is the SPTB's annual ratio study. The study determines the degree to which appraisals within each district comply with the legal standard that all property be appraised uniformly and at full market value. The agency has been conducting such studies for several years. The findings of the study provide valuable information which can be used locally to identify problematic appraisal practices. However, unless a petition is filed under the current provisions, there is no mechanism to ensure that a district examines and corrects appraisal practices that are identified in the studies as varying significantly from the accepted standard.

In districts where poor appraisal practices are indicated over several years as measured by the study, a streamlined approach would strengthen the performance audit provisions. Such instances should not require a petition. Specifically, the proposed modifications would require a district to have an independent performance

audit conducted if the findings of the annual ratio study indicate that the uniformity and level of appraisal are significantly below the level required by state law for four consecutive years. The level recommended to trigger an audit is a median level of appraisal which is below 75 percent of full market value or a coefficient of dispersion that indicates that appraisals vary from the median, on average, by more than 30 percent. Both cases indicate significant variation from acceptable standards. National standards also specify that these measures should indicate much better performance than such levels indicate.

Having the review of practices conducted automatically and initiated locally through independent performance auditors would address another concern identified with the implementation of the current petition-based provisions. This concern involves the unpredictable workload provided through the petition provisions. Currently, the legislature has appropriated approximately \$207,000 for each year in 1988 and 1989 to staff a division of performance auditors in anticipation of audit requests. In the first six months that the current provisions have been in effect, no audits have been requested. Modifying the performance requirement so that a performance audit is instead implemented on a local level with independent appraisers at district expense would eliminate the need for the state to maintain a staff when no audits are requested. This would free up state resources for allocation where needed, such as in conducting the annual studies.

To evaluate the effect that the proposed change would have on local districts, historical data from previous annual ratio studies was reviewed. The study findings indicated that a vast majority of districts perform well within the levels proposed to trigger an audit, a median level of appraisal below 75 percent or a coefficient of dispersion above 30 percent (see exhibit 5). However, based on the three years of data that is available for both measures, nine appraisal districts would fall below this level of performance for four consecutive years if their practices did not improve in the 1988 study. These counties would include: Coleman, Crockett, Fisher, Kimble, LaSalle, McMullen, Nacogdoches, Schleicher, and Throckmorton counties. This can only be used to give an idea of how many districts might be affected since this change would not become effective until 1989.

Exhibit 5
Findings of the 1985, 1986 and 1987*
Annual Ratio Studies

**Median Level of Appraisal
Frequencies for Appraisal Districts**

<u>Median Level</u>	<u>1985</u>	<u>1986</u>	<u>1987*</u>
.90 and above	100	162	197
.80 to .89	101	67	42
.75 to .79	23	14	9
.70 to .74	15	5	2
.60 to .69	10	4	4
.50 to .59	1	1	0
Below .50	<u>1</u>	<u>0</u>	<u>0</u>
TOTAL	252	253	253

**Coefficient of Dispersion
Frequencies for Appraisal Districts**

<u>COD</u>	<u>1985</u>	<u>1986</u>	<u>1987*</u>
Below 20	126	154	147
20 to 25	60	52	52
25 to 30	33	28	36
30 to 35	21	11	10
35 to 40	8	4	4
40 to 45	3	2	0
Above 45	<u>2</u>	<u>2</u>	<u>4</u>
TOTAL	252	253	253

*1987 Findings in Preliminary Form

District performance for the purposes of this provision would be evaluated beginning with the 1988 annual ratio study which is published in final form in May of 1989. This points to a drawback in the proposed change. No audits would be triggered until at least four years after the effective date of the Act. However, this will give districts adequate time to improve their operations and the same result, improvement of appraisal practices, will be attained. After that time, if the findings in four consecutive studies indicate that a district performs below the specified levels, the district would be required to undergo an independent performance audit. The audit would be at the expense of the appraisal district. The findings of the audit would be provided to the taxing units participating in the district and the district. The findings should also be made available to the general public.

OTHER CHANGES

Minor Modifications of Agency's Statute

Discussions with agency personnel concerning the agency and its statute indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to comply with federal requirements or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

**Minor Modifications to the State Property
Tax Board Statute
(Chapter 5 -- Property Tax Code)**

Change	Reason	Location in Statute
Delete transition provision.	To remove language that expired in 1983.	Sec. 5.01 (d)
Substitute "Board of Tax Professional Examiners" for "Board of Tax Assessor Examiners".	To reflect the current name of the board.	Sec. 5.01 (d)
Substitute "Chapter 325, Government Code" for "Article 5429k, Vernon's Texas Civil Statutes".	To reflect the correct statutory citation for the Texas Sunset Act following recent codification.	Sec. 5.11
Limit the number of copies of documents the agency must provide free of charge to local officials to one copy.	To reflect current practice.	Sec. 5.05 (c)
Authorize the agency to provide a reasonable quantity of Taxpayer Remedies publications without charge, but allow the agency to require reimbursement of costs when bulk quantities are requested.	To reflect current practice.	Sec. 5.06

Across the Board Recommendations

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

State Property Tax Board			
Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
X			1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
	X		10. Provide for notification and information to the public concerning board activities.
X			11. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.
	X		12. Require files to be maintained on complaints.
X			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
*			14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.
X			19. Require development of accessibility plan.

*Already in statute.

State Property Tax Board
(cont.)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
X			2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
X			3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.