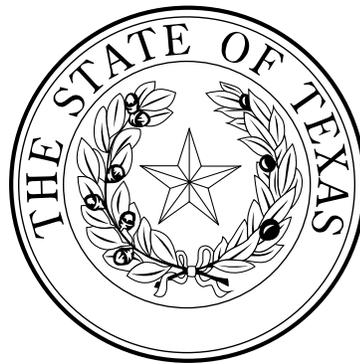


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Summary of Sunset Legislation



Sunset Advisory Commission

July 1997

TEXAS SUNSET ADVISORY COMMISSION

Membership

Representative Patricia Gray, Chair

Senator Ken Armbrister, Vice-Chair

Representative Fred Bosse

Senator J.E. "Buster" Brown

Representative Allen Hightower

Senator Frank Madla

Representative Barry Telford

Senator David Sibley

Mike Sims, Public Member

Dr. Isabella Cunningham, Public Member

Joey Longley
Director

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

Texas Sunset Advisory Commission

**Summary of Legislation
75th Legislature**

July 1997

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Summary

Summary

In 1997, the Sunset Advisory Commission continued to have its work well received by the Legislature. With very few exceptions, the Commission's recommendations were included in the various Sunset bills passed by the 75th Legislature. These bills resulted in the continuation of 19 agencies and the abolition of two agencies, transferring their functions to other state agencies.

This report details the results of the Sunset Commission's work and discusses the additional statutory changes made by the Legislature during its deliberations on the Sunset bills. As finally passed, the bills contained the following major provisions.

- Transfer the functions of the Texas Turnpike Authority (TTA) to a separate Division within the Texas Department of Transportation (TxDOT) to improve the Department's ability to meet statewide transportation needs. Establish the North Texas Tollway Authority to assume responsibility for TTA's toll projects in the Dallas-Fort Worth area.
- Improve the way TxDOT conducts its business by authorizing more creative highway financing, improving the monitoring of highway contracts, and privatizing more engineering services.
- Strengthen the ability of the Department of Protective and Regulatory Services to investigate abuse and neglect, decrease false reports, move abused children into permanent new homes more quickly, streamline adoptions, and improve the use of money for foster care.
- Restructure the make up of the Texas Racing Commission to increase expertise and allow more consistent policymaking. Increase oversight of racetrack facilities, track officials, and money that flows through race animal breed registries.
- Promote economic growth in the racing industry through cross-species simulcasting, revision of pari-mutuel tax rates, and authorization to place automatic banking machines at the race tracks.
- Reduce the scope of the Commission on Fire Protection by transferring the oversight of the State Fire Marshal's Office back to the Commissioner of Insurance. Improve the Fire Commission's policymaking by adding public members and bringing the use of advisory committees in line with the standard for state government.
- Increase public input in the business of the Credit Union Commission by requiring a majority of public members on the Commission, expanding notice requirements for credit union charters and mergers, and allowing for interested persons to comment on proposed expansions.
- Improve planning and contractor accountability for substance abuse services funded by the Commission on Alcohol and Drug Abuse by providing statutory direction in key policy areas to ensure that the agency does not repeat past mistakes.
- Clarify that the Commission on Jail Standards has authority to regulate all facilities, public and private, that house prisoners from other states.
- Abolish the Council on Sex Offender Treatment as an independent agency and consolidate its functions within the Texas Department of Health and the Criminal Justice Policy Council to promote program effectiveness and efficiency.

Once implemented, the Sunset legislation will have a positive net fiscal impact for the state during the next budget cycle and beyond. Savings and gains

will amount to almost \$82 million for the next five years. The following chart breaks the figures out by agency.

In addition, because of the abolition of TTA, the Sunset legislation will result in a net reduction of 143.5 state employees after five years.

The Sunset Commission will monitor these agencies that have just gone through the Sunset process to see how well they implement the legislative directives in these Sunset bills. A report by the Sunset Commission will detail the results of this implementation study. The State Auditor will also evaluate each agency's response to any management recommendations made to the agency by the Commission.

The 75th Legislature also passed S.B. 360 and other legislation that shape the Sunset review schedule for next interim, the 1999 cycle. The Sunset Commission has responsibility to review and make recommendations on 26 agencies during the next 15 months. See the Appendix at the back of this report for a complete listing of the upcoming review schedule.

Several agencies, most notably the Texas Workforce Commission and the Texas Department of Housing and Community Affairs, were moved to a later review period to allow Sunset to focus on the health and human service agencies under review. However, the Department of Criminal Justice remained on the schedule and two significant agencies were added, the Department of Public Safety and the Child Support Enforcement Division of the Attorney General's Office.

Summary of Legislative Action 75th Legislature					
Agency	Bill	Senate Sponsor	House Sponsor	Action	Fiscal Impact 1998 - 2002
Texas State Board of Acupuncture Examiners	SB 361	Madla	Gray	Continued	No fiscal impact
Adjutant General's Department	SB 353	Armbrister	Hightower	Continued	No fiscal impact
Texas Commission on Alcohol and Drug Abuse	HB 2119	Madla	Bosse	Continued	No fiscal impact
Automobile Theft Prevention Authority	HB 1387	Armbrister	Gray	Continued	\$6,399,000
Credit Union Commission	SB 358	Brown	Telford	Continued	No fiscal impact
Criminal Justice Policy Council	HB 1155	Brown	Hightower	Continued	No fiscal impact
Texas Commission on Fire Protection	SB 371	Armbrister	Telford	Continued	\$971,605
Department of Information Resources	SB 365	Armbrister	Bosse	Continued	(\$634,665)
Commission on Jail Standards	SB 367	Brown	Hightower	Continued	No fiscal impact
Texas Juvenile Probation Commission	HB 2073	Brown	Hightower	Continued	No fiscal impact
Commission on Law Enforcement Officer Standards and Education	HB 1856	Armbrister	Telford	Continued	No fiscal impact
National Guard Armory Board	SB 352	Armbrister	Hightower	Continued	No fiscal impact
Board of Pardons and Paroles	HB 1386	Brown	Gray	Continued	(\$361,315)
State Preservation Board	HB 1107	Moncrief	Telford	Continued	No fiscal impact
Department of Protective and Regulatory Services	SB 359	Brown	Gray	Continued	\$62,925,491
Texas Public Finance Authority	HB 1077	Armbrister	Telford	Continued	\$317,500
Texas Racing Commission	HB 1445	Armbrister	Gray	Continued	\$2,172,793
Council on Sex Offender Treatment	HB 2699	Brown	Gray	Abolished/ Transferred	\$350,000
Texas Department of Transportation	SB 370	Armbrister/ Sibley	Bosse/ Gray	Continued	\$9,549,800
Texas Turnpike Authority	Abolished — Functions Transferred				
Texas Youth Commission	HB 2074	Brown	Hightower	Continued	No fiscal impact
Total Fiscal Impact					\$ 81,690,209

Summary of Legislation

Texas State Board of Acupuncture Examiners

Texas State Board of Acupuncture Examiners

Final Action: Continue the Texas State Board of Acupuncture Examiners for Eight Years.

S.B. 361 by Madla (Gray)

Report prepared by Jennifer Jones

Major Provisions in the Final Sunset Bill

In Senate Bill 361, the Legislature adopted all of the Sunset Commission's recommendations to improve the state's regulation of the practice of acupuncture. The bill increases the Acupuncture Board's licensing and enforcement authority making it more consistent with authority provided to the Texas State Board of Medical Examiners (to which the Acupuncture Board is administratively attached) and other health licensing Boards. The increased authority of the Board includes expanded grounds for disciplinary action against licensed acupuncturists and the power to issue subpoenas and temporary licenses.

In addition to adopting the Sunset Commission recommendations, the Legislature also authorized the Acupuncture Board to use the nondisciplinary rehabilitation order as an alternative method for regulating licensed acupuncturists. This authority, which is used in the regulation of both physicians and physician assistants, allows licensees to be regulated through less stigmatizing means when, for example, a licensee suffers from a physical or mental condition or self-reports a substance abuse problem. Another provision added by the Legislature stipulates that the practice of acupuncture is nonincisive and nonsurgical. This change was included in the bill for the chiropractic profession that had been prohibited from practicing acupuncture by a 1996 Attorney General opinion indicating that acupuncture is not within the statutory scope of a chiropractor's license. Senate Bill 361 does not specifically authorize chiropractors to practice acupuncture, but instead changes the definition of acupuncture as the "nonsurgical, nonincisive" insertion of an acupuncture needle. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes additional provisions added during the legislative process.

Sunset Provisions

1. Continue the Texas State Board of Acupuncture Examiners until September 1, 2005.

The Legislature adopted the Sunset recommendation which continues the current functions of the Texas State Board of Acupuncture Examiners, as an Advisory Board attached to the Medical Board for policy oversight and administrative support. The bill also updates the Acupuncture Board's Sunset date to September 1, 2005. This time frame allows

for a full Sunset review of the Acupuncture Board's functions at the same time all other health care licensing agencies are under Sunset review and assures that the health and welfare of the public are protected by continuing to allow the Acupuncture Board to verify fully qualified practitioners.

2. Authorize the Acupuncture Board to issue subpoenas and temporary licenses.

The Legislature adopted the Sunset Commission recommendation authorizing the presiding officer

of the Acupuncture Board or the Executive Director of the Medical Board to issue a subpoena for use in investigating alleged violations or misconduct by licensees and for contested case hearings. The Legislature also authorized the Acupuncture Board, through the Executive Director of the Medical Board, to issue temporary licenses to applicants who have met a majority of the licensing requirements and for intern students and visiting professors. Previously, all temporary licenses had to be approved by the Medical Board which only meets six times per year. This provision authorizes the Executive Director of the Medical Board to approve temporary licenses for acupuncturists, thus improving the expediency of temporary license issuance.

3. Require licensees to maintain a current address on file with the Acupuncture Board.

The Legislature adopted the Sunset Commission recommendation authorizing the Acupuncture Board to require licensees to maintain a current address on file to aid in complaint investigations, license renewals and general administrative needs. License holders are required to inform the Acupuncture Board of any address change within 30 days of the change.

4. Raise the criminal penalty for unlicensed practice of acupuncture from a Class A misdemeanor to a third degree felony.

The Legislature adopted the Sunset Commission recommendation raising the penalty for unlicensed acupuncture to a third degree felony, which is consistent with similar grounds that apply to physicians and physician assistants under the Medical Practice Act.

5. Standardize the grounds for denial of an acupuncture license and for disciplinary action against an acupuncture licensee.

The Legislature adopted provisions that standardize the grounds for denial of an acupuncture license and for disciplinary action against an acupuncture licensee with similar grounds that apply to physicians and physician assistants licensed under the Medical Practice Act. These provisions authorize the Acupuncture Board to deny an applicant or discipline a licensee based on unprofessional or dishonorable conduct likely to deceive or defraud the public, acting in violation of state law if the act is connected to the practice, or suspension, revocation, or disciplinary action against the licensee by another state. These provisions also authorize the Acupuncture Board to require a licensee to submit to counseling, perform public service, or complete additional training as part of disciplinary authority.

Legislative Changes

1. Change the definition of acupuncture to mean the “nonsurgical, nonincisive” insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition.

The Legislature added a provision stipulating that acupuncture is not incisive or surgical. Changing the definition of acupuncture in this manner does not specifically authorize chiropractors and other health care professionals to practice acupuncture, but instead just changes the definition of acupuncture.

2. Authorize the Acupuncture Board to impose a nondisciplinary rehabilitation order.

The Legislature added a provision to allow the Acupuncture Board to impose a nondisciplinary rehabilitation order based on one or more of the following — intemperate use of drugs or alcohol resulting from habituation or addiction caused by medical care or treatment provided by a physician,

self-reported intemperate use of drugs or alcohol, mental illness, or a potentially dangerous limitation or inability to safely practice due to illness or as a result of any physical or mental condition. The provision exempts the order from the open records

law and specifies that a violation of such an order may result in disciplinary action. The provision also requires rehabilitation orders to be kept confidential and subject to an independent audit once every three years by either state or private auditors.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS S.B. 361 by Madla (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 9	Defines acupuncture as the <u>nonsurgical, nonincisive</u> insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition.
Page 2, Line 10 Page 3, Line 18 thru Page 4, Line 14	Updates standard language developed by the Sunset Commission that prohibits Acupuncture Board members or their spouses and Medical Board employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Acupuncture Board. Also defines Texas trade association.
Page 2, Line 22	Updates standard language developed by the Sunset Commission that requires the Governor to designate the presiding officer of the Acupuncture Board.
Page 3, Line 1	Updates standard language developed by the Sunset Commission that prohibits appointment as a public member of the Acupuncture Board if the person or the person's spouse is a licensee, conducts business with the Agency, or otherwise has financial ties to the regulated industry.
Page 4, Line 15	Adds standard language developed by the Sunset Commission. Requires appointments to the Acupuncture Board be made without regard to race, color, disability, sex, religion, age or national origin.
Page 4, Line 21	Continues the Texas State Board of Acupuncture Examiners for eight years.
Page 4, Line 25 thru Page 6, Line 4	Adds standard language developed by the Sunset Commission. Defines the grounds for removing Acupuncture Board members and requires notification of the Acupuncture Board's presiding officer (by the Medical Board's Executive Director), the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Acupuncture Board is valid even if it is taken when a ground for removal exists for one of the members.
Page 6, Line 5	Adds standard language developed by the Sunset Commission. Requires the Executive Director of the Medical Board or the Executive Director's designee to inform members of the Acupuncture Board of the qualifications for office and each person's responsibilities under the law.

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS S.B. 361 by Madla (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 6, Line 11 thru Page 7, Line 17	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board members be provided with adequate information and training to perform their duties. Specifies a person appointed to the Acupuncture Board is entitled to travel reimbursement incurred in attending the training program.
Page 8, Line 13	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Acupuncture Board.
Page 8, Line 22	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Medical Board.
Page 9, Line 3	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to comply with state and federal program and facility accessibility laws. Requires the Executive Director of the Medical Board to prepare and maintain a plan that describes how non-English speaking persons can be provided reasonable access to the Acupuncture Board's programs and services.
Page 9, Line 14 thru Page 10, Line 8	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to prepare and distribute information to the public concerning the Acupuncture Board's functions and complaint procedures.
Page 10, Line 9 thru Page 11, Line 7	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to collect and maintain information about all complaints filed with the Acupuncture Board. Requires the Acupuncture Board to maintain files on written complaints that the Acupuncture Board has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition.
Page 11, Line 8 thru Page 12, Line 1	Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to notify license applicants of licensing examination results within a reasonable time of the examination date. Requires the Acupuncture Board, upon request from an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance if an analysis is available from the national testing service.

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS S.B. 361 by Madla (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 12, Line 2	Authorizes the Executive Director of the Medical Board to issue temporary licenses to persons who are licensed in good standing in another state, United States territory, or the District of Columbia; submit an application; pass a national or other recognized examination relating to acupuncture; pay the appropriate fee prescribed by the Medical Board; or meet all qualifications for a license, but who are waiting for the next Medical Board meeting to issue a license. Temporary licenses are valid for 100 days.
Page 12, Line 21	Adds standard language developed by the Sunset Commission. Prevents the Medical Board from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 13, Line 12	Updates standard language developed by the Sunset Commission that requires all funds paid to the Medical Board, for the functions of the State Board of Acupuncture Examiners, to be managed in accordance with the State Funds Reform Act.
Page 13, Line 15	Adds standard language developed by the Sunset Commission. Requires the Medical Board to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 14, Line 4	Updates standard language developed by the Sunset Commission that authorizes the Medical Board to waive any license requirements and grant a license to an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state.
Page 14, Line 11 thru Page 15, Line 12	Adds standard language developed by the Sunset Commission. Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals.
Page 15, Line 13	Adds standard language developed by the Sunset Commission. Authorizes the Medical Board to adopt a staggered license renewal system.
Page 15, Line 24 thru Page 16, Line 13	Requires licensees to file an address with the Acupuncture Board and to notify the Acupuncture Board of a change in address within 30 days of the change.

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS S.B. 361 by Madla (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 17, Line 1 thru Page 18, Line 11	<p>Makes the grounds for denial of an acupuncture license and for disciplinary action against an acupuncture licensee consistent with similar grounds that apply to physicians and physician assistants licensed under the Medical Practice Act.</p> <p>Specifies grounds for denial of a license or disciplinary action including previous incompetence, detrimental practice, or conviction of a felony or crime of moral turpitude.</p> <p>Expands grounds for denial and disciplinary action to include the license applicant or holder having a mental or physical condition that renders them unable to perform safely as an acupuncturist; fraudulently or deceptively using a license; acting in an unprofessional or dishonorable manner; committing an act in violation of state law; or having a license suspended, revoked, or restricted by another state.</p> <p>Specifies that proof of the Commission of the Act while in practice as an acupuncturist is sufficient for action by the Medical Board.</p>
Page 20, Line 4	<p>Gives the Acupuncture Board additional disciplinary authority consistent with the disciplinary authority governing physician assistants (Section 19, Physician Assistant Licensing Act, Article 4495b, Vernon's Texas Civil Statutes). Under the additional authority, the Acupuncture Board may require an acupuncturist to submit to the care, counseling, or treatment of a health care practitioner; stay enforcement of an order and place the acupuncturist on probation; or restore or reissue a license or remove any disciplinary action the Board may have imposed. Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to use a full range of penalties, such as reprimand, suspension, or revocation, for violations of state laws or agency rules.</p>
Page 20, Line 20	<p>Adds standard language developed by the Sunset Commission. Requires the Acupuncture Board to use a full range of penalties such as limiting the scope of practice, requiring regular reporting to the Board, and reviewing professional education for violations of state laws or agency rules.</p>
Page 21, Line 4	<p>Updates standard language developed by the Sunset Commission that entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.</p>

TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS S.B. 361 by Madla (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 21, Line 14 thru Page 23, Line 15	<p>Authorizes the Acupuncture Board to impose a nondisciplinary, private rehabilitation order on any licensee or on any licensure applicant based on one or more of the following — intemperate use of drugs or alcohol directly resulting from habituation or addiction caused by medical care or treatment provided by a physician; self-reported intemperate use of drugs or alcohol; judgement by a court that the individual is of unsound mind; or indication that the licensee suffers from a potentially dangerous limitation or an inability to safely practice as an acupuncturist by reason of illness or as a result of any physical or mental condition.</p> <p>Specifies a rehabilitation order may impose a revocation, cancellation, suspension, or any period of probation or restriction, and that a violation of a rehabilitation order may result in disciplinary action.</p> <p>Specifies rehabilitation orders are subject to an independent audit at least once every three years.</p>
Page 23, Line 20	Raises the criminal penalty for unlicensed practice of acupuncture from a Class A misdemeanor to a third degree felony.
Page 23, Line 24 thru Page 24, Line 19	Grants the presiding officer of the Acupuncture Board or the Executive Director of the Medical Board, on behalf of the Acupuncture Board, the authority to issue a subpoena or subpoena duces tecum for investigations or contested proceedings; a determination of whether to issue, suspend, restrict, or cancel a license; or a determination of whether to deny or grant an application for a license.
Page 24, Line 20	Specifies that the change made to Section 6.12 (increasing the criminal penalty from a Class A misdemeanor to a third degree felony), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) applies only to an offense committed on or after the effective date of this Act.
Page 25, Line 5	Specifies that the changes to the Board member qualifications do not prevent a person who serves on the Board before September 1, 1997 from being reappointed if that person meets the qualifications effective on that date.
Page 25, Line 17	Specifies the effective date of the Act as September 1, 1997 and applies the Act only to a license issued or renewed by the Texas State Board of Medical Examiners under Subchapter F of the Medical Practice Act.
Page 25, Line 22 thru Page 26, Line 1	Emergency clause.

Adjutant General's Department

Adjutant General's Department

Final Action: Continue the Adjutant General's Department for 12 Years with Changes.

S.B. 353 by Armbrister (Hightower)

Report prepared by John Hubbard

Major Provisions in the Final Sunset Bill

Senate Bill 353 continues the Adjutant General's Department for 12 years and makes other changes to provide more flexibility in selecting the Adjutant General and in setting the rank of the Assistant Adjutants General. These changes will also bring the selection of these officers into line with federal practices and the command structure of the National Guard. The Legislature also added a provision to conform the state's court martial process with federal law. Finally, the Legislature also added language to prevent the sale of state-owned National Guard property if the Adjutant General determines that the property is necessary for military purposes. The following material summarizes the major provisions in the bill, as recommended by the Sunset Commission and adopted by the Legislature, and includes modifications and additional provisions added during the legislative process.

Sunset Provision

- 1. Continue the Adjutant General's Department for 12 years to support the Texas National Guard.**

The Legislature adopted the recommendation of the Sunset Commission to continue the Adjutant General's Department for 12 years. By renewing the agency, the Legislature ensured the existence of a military force to aid the state in times of crisis and to help leverage almost \$400 million of federal funds each year for the state.

Legislative Changes

- 1. Remove a provision that sets the maximum age of the Adjutant General at 64.**

The Legislature removed a statutory provision which set the maximum age to serve as Texas Adjutant General at 64. Federal law sets no age limits on serving as Adjutant General. Removing this provision from statute conforms state law to federal law.

- 2. Authorize the Assistant Adjutants General to hold a rank higher than brigadier general.**

The Legislature adopted a provision allowing Assistant Adjutants General to hold a rank higher than brigadier general. Statute had specified the rank of Assistant Adjutants General as brigadier generals. However, this caused problems within the chain of command when field officers were advanced to ranks higher than brigadier general. This provision authorizes the Assistant Adjutants General to hold ranks higher than brigadier general to avoid problems within the command structure.

- 3. Provide for notifying the attorney of a person accused of a court martial for purposes of beginning the appeals process.**

A person accused of a court martial offense has 60 days after receiving notice of conviction in the case to file an appeal with the Texas Court of Military Appeals. However, if the person flees and is never formally notified of the conviction, the 60-day time period would never begin. The Legislature added a

provision for notifying the accused person's attorney regarding conviction so that the time period allowed for appeals begins even if the person has taken flight. Adding this provision conforms state law to federal law.

- 4. Prevents the General Land Office (GLO) from recommending the sale of any real property held by the Adjutant General's Department or the National Guard Armory Board if the property is used for military purposes.**

The Legislature adopted a provision which requires the GLO to obtain from the Adjutant General a determination that land is not used for military purposes before the GLO can recommend the sale of that land. Land that the Adjutant General determines is being used for military purposes cannot be recommended for sale.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

ADJUTANT GENERAL'S DEPARTMENT S.B. 353 Armbrister (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 6	Modifies standard language developed by the Sunset Commission. Requires appointment of the Adjutant General to be made without regard to race, color, sex, religion, age, or national origin.
Page 1, Line 11 thru Page 2, Line 12	Prohibits the Adjutant General or their spouses, and employees compensated at or above Group 17 in the Appropriations Act or their spouses, from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as the Adjutant General or from being employed as Adjutant General's Department (AGD) judge advocate general. Also defines Texas trade association.
Page 2, Line 18 Page 2 Line 21 thru	Changes AGD's Sunset date to September 1, 2009. Modifies standard language developed by the Sunset Commission. Requires
Page 3, Line 24	the Adjutant General to be provided with adequate information and training before assuming duties and being confirmed by the Senate.
Page 4, Line 2	Modifies standard language developed by the Sunset Commission. Defines the grounds for removing the Adjutant General and requires notification of the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members.
Page 4, Line 23	Authorizes the Assistant Adjutants General to hold a rank higher than brigadier general so that no officer under the Assistant Adjutants General could outrank the Assistant Adjutants General.
Page 5, Line 9	Adds standard language developed by the Sunset Commission. Requires the Adjutant General or a designee to inform employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 5, Line 14	Adds standard language developed by the Sunset Commission. Requires the Adjutant General or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within AGD and requires intra-agency postings of job openings concurrently with any public posting.
Page 5, Line 19	Adds standard language developed by the Sunset Commission. Requires the Adjutant General or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.

ADJUTANT GENERAL'S DEPARTMENT S.B. 353 Armbrister (Hightower) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 5, Line 24 thru Page 7, Line 2	Modifies standard language developed by the Sunset Commission. Requires the Adjutant General or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. Also replaces the term, "guidelines" with, "laws, rules and regulations and instructions directly promulgated from those laws rules and regulations."
Page 7, Line 5 thru Page 8, Line 2, Page 12, Line 12, Page 12, Line 20 thru Page 13, Line 2	Prevents the General Land Office from recommending the sale of any real property held by the Adjutant General's Department or the National Guard Armory Board, including Camp Mabry, if the Adjutant General determines that such property is used for military purposes.
Page 8, Line 8	Adds standard language developed by the Sunset Commission. Requires AGD to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 9, Line 2	Adds standard language developed by the Sunset Commission. Requires AGD's funds to be managed in accordance with the State Funds Reform Act.
Page 9, Line 9	Modifies standard language developed by the Sunset Commission. Requires AGD to prepare and distribute information to the public concerning AGD's functions and complaint procedures.
Page 9, Line 21 thru Page 10 Line, 18	Adds standard language developed by the Sunset Commission. Requires AGD to collect and maintain information about all complaints filed with AGD. Requires AGD to maintain files on written complaints that AGD has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 10, Line 21 thru Page 11, Line 1	Adds standard language developed by the Sunset Commission. Requires AGD to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to AGD's programs.
Page 11, Line 4	Removes a provision that sets the maximum age of the Adjutant General at 64. As a result, no maximum age is set for the Adjutant General. The amendment also removes a provision in state law that required the Adjutant General to be a citizen of the United States and Texas. As a result, a person must only meet the qualifications for Adjutant General found in laws and regulations of the United States.

ADJUTANT GENERAL'S DEPARTMENT S.B. 353 Armbrister (Hightower) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 11, Line 21 thru Page 12, Line 7	Provides for notifying the attorney of a person accused of a court martial regarding final action on the case. The accused person may only appeal a court martial conviction within 60 days of the accused person or the accused person's attorney receiving the notice of final action, whichever date is earlier.
Page 13, Line 9	Establishes the effective date of the Act as September 1, 1997.
Page 13, Line 10	Specifies that the changes made in this Act relating to the qualifications of, and prohibitions applying to, appointment to the position of Adjutant General only apply on or after September 1, 1997.
Page 13, Line 14	Emergency clause.

Texas Commission on Alcohol and Drug Abuse

Texas Commission on Alcohol and Drug Abuse

Final Action: Continue the Texas Commission on Alcohol and Drug Abuse for 12 Years.

H.B. 2119 by Bosse (Madla)

Report prepared by John Hawkins

Major Provisions in the Final Sunset Bill

House Bill 2119 continues the Texas Commission on Alcohol and Drug Abuse (TCADA) and makes several statutory changes to improve the service delivery system funded by the agency. In April 1995, TCADA became the first agency in the history of state government to be placed under conservatorship. This action was in response to audit findings of serious fiscal mismanagement by the agency's contractors and frustration with the agency's slow response to legislative concerns. In addition, the Legislature put TCADA under Sunset review two years early. The Legislature adopted all of the Sunset Commission's recommendations which focus on improving TCADA's service delivery system. The bill provides important statutory direction for the agency in key policy areas to ensure that the agency does not repeat its past mistakes. Specifically, the bill improves planning for substance abuse service delivery, modifies methods used by the agency to fund and reimburse service providers, improves contractor accountability, and provides for better technical assistance to providers. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes an additional provision added during the legislative process.

Sunset Provisions

- 1. Require TCADA to develop a statewide plan for substance abuse service delivery.**

The Legislature adopted the Sunset Commission's recommendation to require TCADA to develop a statewide plan that defines the goals of substance abuse services; details how services should be organized, delivered, and managed; explains how funding priorities are developed and funding decisions are made; and guides how local input can be used to identify regional needs of the state. A statewide plan for service delivery will provide the fundamental structure for a coordinated service delivery system throughout the state to best meet the needs of the substance abuse client.

- 2. Improve TCADA's funding system to ensure that cost effective, quality services are available across the state.**

The Legislature adopted the Sunset Commission's recommendation to require TCADA to establish a funding system that maximizes the availability of treatment services statewide, provides for reasonable geographic access to services, and selects providers on a best-value basis. Additionally, TCADA must establish a system for obtaining local input in funding decisions on a regional basis, including an opportunity for formal recommendations from the local level. TCADA must also establish a publicly-available policy that shows how the agency determines funding priorities, provider selection criteria, and provider selections, and document the process used to develop the policy. These improvements ensure that TCADA's funding process provides a full range of treatment services

for clients and that treatment services within a region are accessible.

3. Require TCADA to implement a payment method that results in the highest quality services at the best price.

The Legislature adopted the Sunset Commission's recommendation to require TCADA to study and implement a unit rate method for paying its treatment and prevention/intervention providers. TCADA currently purchases treatment services using a unit rate, per client per level of treatment, but it pays for services on a cost reimbursement basis, or based on actual costs. This system has been confusing and costly to administer for TCADA as well as the service providers. If implemented, the system must have several safeguards including verification of costs included in the unit rate, increased performance monitoring efforts, and maintenance of a competitive procurement system.

4. Improve accountability for state funds through adequate contracting and performance measurement.

The Legislature adopted the Sunset Commission's recommendation to require TCADA to set standards in contracts that include clearly defined goals, outputs, and measurable outcomes that directly relate to the program objectives. Additionally, the agency is required to use a risk assessment methodology to closely monitor compliance with both financial and performance requirements. Contract goals must include a standard developed by the Commission that is based on a percentage of program clients who maintain long-term recovery for an extended period as defined by the Commission. This recommendation was consistent with broader legislative efforts to improve state agency contracting procedures, primarily as a result of TCADA's being placed under conservatorship due to problems with maintaining provider accountability.

5. Improve the agency's technical assistance process.

The Legislature adopted the Sunset Commission's recommendation to require the agency to provide clear and consistent technical assistance to service providers. The agency is required to include formal, documented technical assistance policies and procedures; a single point of entry for technical assistance requests; and established technical assistance response time frames as determined by the Commission. This recommendation will require TCADA to develop effective technical assistance to ensure that providers get the necessary help to achieve greater compliance and accountability.

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

The Legislature adopted the Sunset Commission's recommendation to continue the agency for the standard 12-year review period.

7. Provide parallel statutory authority regarding rule and fee authority for each of the offender education programs administered by TCADA.

The Legislature adopted the Sunset Commission's recommendation to provide consistent statutory authority for each of the offender education programs administered by TCADA. Specific provisions required for administration of each program include the ability of the Commission to adopt rules; the requirement that the Commission monitor, coordinate, and train persons providing the education programs; and the authority to charge a fee for certification and renewal.

8. Delete the requirement that an applicant for a chemical dependency counselor license be a resident of the State of Texas.

The Legislature adopted the Sunset Commission's recommendation to delete the State of Texas residency requirement for chemical dependency counselor licensure.

9. Make the Commission responsible for all licensing and disciplinary decisions regarding chemical dependency treatment facilities and counselors. Authorize the use of administrative penalties in disciplining licensed chemical dependency counselors.

The Legislature adopted the Sunset Commission's recommendation to make the handling of licensing and disciplinary matters for facilities and counselors comparable by placing the authority for final decisions with the Board of the agency. Currently, responsibility for decisions related to facility licenses rests with the Executive Director. The recommendation giving the agency administrative penalty authority against licensed counselors was also adopted. Fines are limited to \$1,000 and must be based on the seriousness of the violation.

10. Recodify all of TCADA's statutory authority in contiguous chapters of the health and safety code.

The Legislature adopted the Sunset Commission's recommendation to make technical corrections and conforming changes to the agency's statutory authority where appropriate.

Legislative Change

1. Require a review of TCADA's status as an independent agency during the Sunset Commission's review of all health and human service agencies.

The Legislature included a provision requiring the Sunset Commission to study, in conjunction with its review of health and human service agencies for the 76th Legislature, whether TCADA treatment programs should be transferred to the Department of Mental Health and Mental Retardation or the Department of Health.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill could result in a positive net fiscal impact to the General Revenue Fund for the biennium ending August 31, 1999, but the exact amount cannot be estimated.

The recommendations related to development of a statewide plan and improvements to the agency's funding system would result in more effective use of public funds by maximizing funds spent in the service delivery system. The recommendations to implement a unit rate system to pay for services, improve the accountability of providers, and improve technical assistance could result in a positive fiscal impact to the state but the actual savings cannot be estimated.

Bill Summary

TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE H.B. 2119 by Bosse (Madla) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 7	Updates standard language developed by the Sunset Commission. Requires appointments to the Commission be made without regard to race, color, disability, sex, religion, age, or national origin.
Page 1, Line 12	Continue the Commission on Alcohol and Drug Abuse for 12 years.
Page 1, Line 17	Changes the terms of Commission members from two years to staggered, six-year terms.
Page 1, Line 22 thru Page 2, Line 3	Updates standard language developed by the Sunset Commission. Requires the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 2, Line 4	Updates standard language developed by the Sunset Commission. Requires the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.
Page 2, Line 9 thru Page 3, Line 10	Updates standard language developed by the Sunset Commission. Requires the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 3, Line 17	Updates standard language developed by the Sunset Commission. Requires the Commission's funds to be managed in accordance with the State Funds Reform Act.
Page 3, Line 21	Updates standard language developed by the Sunset Commission. Requires the Commission to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 4, Line 4 thru Page 5, Line 2	Updates standard language developed by the Sunset Commission. Requires the Commission to collect and maintain information about all complaints filed with the Commission. Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition.
Page 5, Line 6 thru Page 7, Line 23	Technical correction - deletes duplicate sections numbered 16.

TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE H.B. 2119 by Bosse (Madla) Enrolled Version	
Bill Reference	Bill Provision
Page 7, Line 24	Updates language in the statute to allow the Commission to establish regional advisory committees consistent with the uniform statewide health and human services regions.
Page 7, Line 27 thru Page 8, Line 5	Adds standard language developed by the Sunset Commission. Requires the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 8, Line 9 thru Page 9, Line 13	Adds standard language developed by the Sunset Commission. Requires the Board to complete training before assuming their duties.
Page 9, Line 14 thru Page 11, Line 5	Requires the Commission to develop a statewide service delivery plan.
Page 11, Line 6	Requires the Commission to develop a performance-based contracting system that will evaluate private contractor performance and hold them accountable for the services delivered.
Page 12, Line 1	Requires the Commission to adopt a technical assistance program for providers.
Page 12, Line 9	Requires the Commission to adopt a services funding system that maximizes the range and accessibility of services. The system must also include local input.
Page 12, Line 19 thru Page 13, Line 22	Requires the Commission to procure services on a best-value basis.
Page 13, Line 23 thru Page 14, Line 1	Requires the details of the provider selection process to be maintained in rule.
Page 14, Line 2	Requires the Commission to publish a funding policy manual for use by providers.
Page 14, Line 9 thru Page 15, Line 8	Requires the Commission to study the procurement and payment of service on a unit-rate reimbursement basis.
Page 15, Line 9 thru Page 16, Line 7	Conforming change to reflect transfer of authority made during 74th Legislature.
Page 16, Line 8	Updates standard language developed by the Sunset Commission. Requires the Commission's funds to be managed in accordance with the State Funds Reform Act.

TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE H.B. 2119 by Bosse (Madla) Enrolled Version	
Bill Reference	Bill Provision
Page 16, Line 18	Makes the Commission responsible for actions related to facility licensure.
Page 16, Line 17 thru Page 18, Line 13	Updates standard language developed by the Sunset Commission. Requires the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 18, Line 16	Conforming change to reflect funds consolidation.
Page 18, Line 24 thru Page 19, Line 6	Adds standard language developed by the Sunset Commission. Entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 19, Line 10 thru Page 20, Line 8	Removes the requirement that an applicant for chemical dependency counselor licensure be a citizen of the state.
Page 20, Line 13 thru Page 21, Line 25	Updates standard language developed by the Sunset Commission. Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals.
Page 22, Line 2	Updates standard language developed by the Sunset Commission. Requires the policymaking body to develop and administer voluntary continuing education programs for licensees.
Page 22, Line 12 thru Page 24, Line 2	Updates standard language developed by the Sunset Commission. Requires the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 24, Line 3 thru Page 24, Line 26	Adds standard language developed by the Sunset Commission. Entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 24, Line 27 thru Page 25, Line 27	Updates standard language developed by the Sunset Commission. Requires the Commission to collect and maintain information about all complaints filed with the Commission related to licensing. Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 26, Line 4	Conforming changes to reflect funds consolidation.
Page 26, Line 15 thru Page 27, Line 23	Adds standard language developed by the Sunset Commission. Allows the Commission to issue provisional licenses to license applicants who are currently licensed in another state and allows the Commission to waive any of the requirements if they constitute a hardship to the applicant.

TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE H.B. 2119 by Bosse (Madla) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 27, Line 24 thru Page 33, Line 24	Authorizes the Commission to assess administrative penalties against counselor licensees who violate the Act or rules.
Page 33, Line 27 thru Page 37, Line 7	Provides parallel statutory authority for the Commission to approve alcohol awareness courses under the Alcoholic Beverage Code, Code of Criminal Procedure, and Transportation Code.
Page 37, Line 8	Requires the first statewide service delivery plan to be developed not later than February 1, 1998.
Page 37, Line 12	Transitional language related to the study of the unit rate reimbursement system.
Page 37, Line 20 thru Page 38, Line 1	Transitional language related to Board appointments.
Page 38, Line 10	Establishes the effective date of the Act as September 1, 1997.
Page 38, Line 11	Emergency clause.

Automobile Theft Prevention Authority

Automobile Theft Prevention Authority

Final Action: Strengthen the Relationship Between the Automobile Theft Prevention Authority and the Texas Department of Transportation to Achieve Oversight and Efficiency.

H.B. 1387 by Gray (Armbrister)

Report prepared by Katherine Closmann

Major Provisions in the Final Sunset Bill

House Bill 1387 continues the Automobile Theft Prevention Authority (ATPA) within the Texas Department of Transportation (TxDOT) and makes several changes to strengthen its relationship with TxDOT. Although ATPA was placed within TxDOT's structure by statute in 1995, it had not benefitted sufficiently from the oversight and efficiency that TxDOT could provide as a large agency with a well-developed infrastructure. Conflicting statutory directives prevented ATPA and TxDOT from working together to achieve the improved efficiency that had been desired. Because ATPA had the authority to hire its own staff and had its own office space, it operated much like an independent agency. The Legislature adopted the Sunset Commission's recommendations designed to achieve that oversight and efficiency. The bill removes ATPA's ability to hire its own staff and contract for its own services and requires TxDOT to fulfill those responsibilities. Finally, as part of TxDOT, the Authority will not need an independent Sunset review, but will be reviewed as part of the Department in future reviews. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes an additional provision added during the legislative process.

Sunset Provisions

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

The Legislature adopted the Sunset Commission's recommendation that the Automobile Theft Prevention Authority be continued within the Texas Department of Transportation and be removed from independent Sunset review. The seven-member Authority will remain a separate Governor-appointed entity within the Department, staffed by Department employees and provided services only through the Department. In fact, the Sunset bill deletes language that allowed ATPA to employ and compensate its own staff and deletes language that allowed it to contract for its own services. Strengthening the link between ATPA and TxDOT will ensure efficiency and oversight for the

Authority. The Legislature also implemented another Sunset recommendation designed to enhance the Authority's efficiency—a cap on non-grant expenses set at eight percent of total expenditures.

2. Maximize earnings on auto theft prevention assessment collections.

The Legislature adopted the Sunset Commission's recommendation that the ATPA assessment be collected from insurance companies twice a year effective August 1998—March 1 and August 1—rather than the current once a year collection on March 1. This change will result in a one-time speed up in the collection of this assessment, resulting in an estimated \$6,180,000 gain to General Revenue in 1998. In addition, increased interest earned on this amount will cause a \$294,000 gain to the General Revenue Fund in 1999.

Legislative Change

1. Expand the ability of an insurance company to seek a refund of ATPA assessments paid before 1995.

The Authority has interpreted current law in such a way that a request for a refund of ATPA assessments is only valid if the overpayment in question was made in or after 1995—the date the refund law

became effective. This created a problem for an insurance company that significantly overpaid before that date. The Legislature modified this requirement to give insurance companies two months after the September 1, 1997 effective date of the bill to request a refund of ATPA assessments paid before 1995. Thereafter, requests by insurance companies must be made within six months of the payment.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a positive net fiscal impact for the biennium ending August 31, 1999. This gain will result from the one-time speed-up of collections of the ATPA assessment for 1998 and subsequent increased interest on the one-time collection in 1999. In each of the succeeding fiscal years thereafter, minor interest losses will result because interest earned on the annual assessment would include only one month's interest earning prior to the end of the fiscal year. The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact	
Fiscal Year	Gain/(Loss) to the General Revenue Fund
1998	\$6,180,000
1999	\$294,000
2000	(\$26,000)
2001	(\$21,000)
2002	(\$28,000)

Bill Summary

AUTOMOBILE THEFT PREVENTION AUTHORITY H.B. 1387 by Gray (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 7	Clarifies that the “Department” refers to the Texas Department of Transportation (TxDOT), and the “Director” refers to the Executive Director of TxDOT.
Page 1, Line 16	Deletes existing statutory language that requires TxDOT to implement Automobile Theft Prevention Authority (ATPA) decisions.
Page 1, Line 22	Updates standard language developed by the Sunset Commission regarding appointments to the Authority. Deletes the word “handicap” and replaces it with “disability.”
Page 2, Line 1	Updates standard language developed by the Sunset Commission that defines the grounds for removing a member of the Authority. Requires notification of the Authority’s presiding officer, the Governor, and the Attorney General if knowledge that a potential ground for removal exists.
Page 2, Line 25 thru Page 3 Line 17 (except lines 5-7)	Adds standard language developed by the Sunset Commission. Prohibits appointment as a motor vehicle insurance consumer member of the Authority if the person or the person’s spouse is registered, certified, or licensed by a law enforcement or motor vehicle insurance regulatory agency. Also prohibits appointment if the person or the person’s spouse is the owner, part-owner, or employee of a business that receives funds from the Authority or is an officer, employee, or paid consultant of a Texas trade association.
Page 3, Lines 5-7 and Page 3 Line 18 thru Page 4, Line 2	Adds standard language developed by the Sunset Commission. Prohibits a registered lobbyist from serving as a member of the Authority or from being employed as the Authority’s general counsel. Also defines Texas trade association.
Page 4, Line 3	Adds standard language developed by the Sunset Commission. Requires the Director of TxDOT or a designee to inform ATPA members of their qualifications for office and each person’s responsibilities under the law.
Page 4, Line 11	Adds standard language developed by the Sunset Commission. Requires the Governor to designate the presiding officer of the Authority.
Page 4, Line 16 thru Page 5, Line 19	Adds standard language developed by the Sunset Commission. Requires Authority members to complete training to be eligible to take office.

AUTOMOBILE THEFT PREVENTION AUTHORITY H.B. 1387 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 5, Line 23 thru Page 6, Line 8	Requires that ATPA use TxDOT staff and services. Deletes language that allowed ATPA to employ and compensate its own staff and deleted language that allowed it to contract for its own services. However, specifies that ATPA may still enter into contracts in its own name with grant recipients.
Page 6, Line 11	Adds standard language developed by the Sunset Commission. Requires the Authority, in coordination with TxDOT, to clearly separate its policymaking responsibilities from the management responsibilities of TxDOT.
Page 6, Line 15	Adds standard language developed by the Sunset Commission. Requires the Authority to give the public reasonable opportunity to appear before it regarding issues under its jurisdiction.
Page 6, Line 18	Adds standard language developed by the Sunset Commission. Requires the Authority to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 7, Line 6	Technical correction. Deletes references to the Automobile Theft Prevention Fund that was abolished as a result of funds consolidation legislation last session, and conforms related language accordingly.
Page 8, Line 9	Sets an eight percent cap on administrative expenses, including salaries, travel, and marketing expenses.
Page 8, Line 13	Specifies that only funds appropriated for ATPA purposes may be used to pay ATPA's staffing, legal, and other expenses. Conversely, also specifies that appropriations made for ATPA purposes may not be used for any other purpose.
Page 8, Line 25 thru Page 9, Line 10	Effective August 1, 1998, provides for the collection of ATPA assessments twice a year—March 1 and August 1.
Page 9, Line 15	Removes ATPA from separate Sunset review.
Page 9, Line 16	Specifies that a request by an insurance company for a refund of ATPA assessments is valid regardless of the date the assessment was paid or the request was made, except that a request for a refund or a determination of the sufficiency of payments must be made by November 1, 1997 or six months after payment, whichever is later.
Page 10, Line 9	Establishes the effective date of the Act as September 1, 1997.
Page 10, Line 10	Emergency clause.

Credit Union Commission

Credit Union Commission

Final Action: Continue the Credit Union Commission for 12 Years with Changes.

S.B. 358 by Brown (Telford)

Report prepared by Steve Hopson

Major Provisions in the Final Sunset Bill

Senate Bill 358 improves the ability of the public to participate in decision making by the Credit Union Commission and continues the Commission for 12 years. To reduce industry domination of the Commission and ensure active public participation, SB 358 increases the number of public members on the Commission and reduces the number of industry representatives. Because public participation requires that the public be informed of major credit union regulatory changes, the bill requires the Commission to publish notice of credit union applications for new charters, field of membership expansions, and mergers. As a means of increasing the public's ability to give input to the Commission, the bill grants interested persons the right to comment on credit union expansion decisions.

The Legislature also adopted the recommendation of the Sunset Commission to study the structure of the state's financial regulatory agencies and the potential effects of consolidating the Credit Union Commission under the jurisdiction of the Finance Commission. This study is to be conducted during the Sunset Commission's reviews in 2001. After this review, the Legislature will be better prepared to make a decision on the independent nature of the Commission. The following material provides more detail on the major provisions in the bill, as recommended by the Sunset Commission and adopted or modified by the Legislature.

Sunset Provisions

1. Increase the public perspective of the Credit Union Commission by requiring a public member majority.

Currently, the Credit Union Commission is composed of nine members—three public members and six industry representatives. The Sunset Commission has consistently found that boards dominated by a regulated industry tend to be protective of that industry. The Legislature adopted the recommendation of the Sunset Commission to change the composition of the Credit Union Commission to a majority of public members — five public members and four industry representatives. Senate Bill 358 requires the Commission to adopt rules on recusal of members and public notice of Commission activities. These

rules increase the Commission's focus on protecting consumers while maintaining the soundness of the credit union industry. The bill also requires the Commission to adopt rules on credit union mergers. Mergers are the most common form of credit union expansion, but the Commission has not established rules outlining the approval process for mergers. Placing these policies in the Department's rules affords the public with notice of how the agency approves proposed credit union mergers.

2. Ensure adequate public notice and opportunity for input regarding proposed new or expanded credit unions.

The important role that credit unions play in providing affordable financial services to Texans

makes the Commission's regulation of credit unions of interest to the public. However, the Commission has established procedures that prevent the public from knowing about or commenting on decisions regarding new or expanding credit unions. The Legislature adopted the recommendation of the Sunset Commission to provide the public with notice of applications for credit union charters, field of membership expansions, and mergers through the Texas Register. Providing public notice through the Texas Register is consistent with established state policy for other regulatory agencies. Senate Bill 358 also grants the public the opportunity to give input on these decisions by requiring the Credit Union Commissioner to meet with interested members of the public and to accept written comments. Allowing for public input provides the Credit Union Commissioner with the broad-based information necessary to assess the availability and adequacy of financial services and the impact of these decisions on local communities.

3. Continue the Credit Union Commission for 12 years.

The Sunset Commission recommended that the Credit Union Commission be continued for four years so that the Sunset reviews of the Finance Commission and the Credit Union Commission would both take place in 2001. The Legislature modified this recommendation and provided the Credit Union Commission with the standard 12-year Sunset review cycle. However, the Legislature left unmodified the Sunset Commission's recommendation that the Credit Union Commission and the Finance Commission jointly review the state's financial regulatory laws to identify areas of consistency and inconsistency. Also unmodified was the recommendation that the Sunset Commission evaluate the structure of the state's financial regulatory agencies and the potential effects of placing the Credit Union Commission under the jurisdiction of the Finance Commission in its reviews in 2001.

Legislative Change

The Legislature added no new major provisions to the bill.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

CREDIT UNION COMMISSION S.B. 358 by Brown (Telford) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 19 thru Page 4, Line 11	Removes language establishing procedures regarding the applications for credit union charters made unnecessary by Section 12.03 of this Act. Permits the Credit Union Commissioner to consider the availability and adequacy of financial services in the local community and the effect that the credit union charter would have on the local community.
Page 4, Line 20 thru Page 5, Line 7	Requires the Commission to adopt rules outlining the credit union merger process.
Page 5, Line 19 thru Page 6, Line 1	Adds standard language developed by the Sunset Commission to require the Commission to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 6, Line 6	Continues the Credit Union Commission for 12 years and removes the Act from the expiration clause.
Page 6, Line 11 thru Page 7, Line 7	Increases public membership on the Commission from three to five public members.
Page 7, Line 4	Modifies standard language developed by the Sunset Commission to prohibit appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to a financial institution or an organization regulated by any financial institution regulatory agency.
Page 8, Line 4	Modifies standard language developed by the Sunset Commission to prohibit Commission members or their spouses and employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a trade association representing financial institutions. Prohibits registered lobbyists from serving as a member of the Commission or from being employed as the Commission's general counsel. Also defines trade association.
Page 9, Line 13	Adds standard language developed by the Sunset Commission to require appointments to the Commission be made without regard to race, color, disability, sex, religion, age or national origin.
Page 9, Line 23 thru Page 11, Line 8	Modifies standard language developed by the Sunset Commission to require Commission members to complete training not later than 180 days after taking office.

CREDIT UNION COMMISSION S.B. 358 by Brown (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 11, Line 12 thru Page 13, Line 7	Adds standard language developed by the Sunset Commission to define the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members.
Page 13, Line 6	Adds standard language developed by the Sunset Commission to require the Commission to comply with the open meetings and administrative procedures laws.
Page 13, Line 22	Adds standard language developed by the Sunset Commission to require the Governor to designate the presiding officer of the Commission.
Page 14, Line 7	Requires the Commission to adopt rules governing recusals of Commission members.
Page 14, Line 20	Adds standard language developed by the Sunset Commission to require the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission.
Page 14, Line 25 thru Page 15, Line 1	Requires the Commission to adopt rules providing public notice of Commission activities.
Page 15, Line 5	Adds standard language developed by the Sunset Commission to prevent the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 15, Line 8	Adds standard language developed by the Sunset Commission to require the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Commissioner and staff of the Commission.
Page 16, Line 12	Adds standard language developed by the Sunset Commission to require the Commission's funds to be managed in accordance with the State Funds Reform Act.
Page 16, Line 19	Adds standard language developed by the Sunset Commission to require the Commission to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law.

CREDIT UNION COMMISSION S.B. 358 by Brown (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 17, Line 11 thru Page 18, Line 14	Adds standard language developed by the Sunset Commission to require the Commission to collect and maintain information about all complaints filed with the Commission. Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition.
Page 18, Line 15 thru Page 19, Line 7	Adds standard language developed by the Sunset Commission to require the Commission to prepare and distribute information to the public concerning the Commission's functions and complaint procedures.
Page 19, Line 8	Adds standard language developed by the Sunset Commission to require the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 19, Line 17	Adds standard language developed by the Sunset Commission to require the Commissioner or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 19, Line 23	Adds standard language developed by the Sunset Commission to require the Commissioner or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.
Page 20, Line 6 thru Page 21, Line 11	Adds standard language developed by the Sunset Commission to require the Commissioner or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 21, Line 15 Page 22, Line 1	Adds standard language developed by the Sunset Commission to entitle credit unions to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their certificates of incorporation. Exempts meetings held pursuant to Section 12.03 of this Act.
Page 22, Line 13 thru Page 23, Line 22	Requires the Commissioner to provide for public notice, comment, and opportunity for a meeting to any interested party before making decision regarding approval or denial of charter applications, field of membership expansions, and mergers. Grants Commission rulemaking authority over the circumstances and conduct of the meeting. Allows the Commissioner to waive or delay the requirement for public notice on determination that the waiver or delay is in the public interest. If the public notice is waived, the information becomes public after 35 days.

CREDIT UNION COMMISSION S.B. 358 by Brown (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 23, Line 23 thru Page 24, Line 14	Charges the Sunset Commission, in its reviews in 2001, with evaluating the structure of the state's financial regulatory agencies. Requires the Credit Union Commission to coordinate with the Finance Commission of Texas to jointly review financial institution regulatory laws and rules to identify areas of consistency and inconsistency and report to the Sunset Commission by September 1, 1999, on the results of the review.
Page 24, Line 15	Establishes the procedure for vacancies on the Credit Union Commission to be filled.
Page 24, Line 24	Establishes the effective date of the Act as September 1, 1997.
Page 24, Line 25 thru Page 25, Line 4	Emergency clause.

Criminal Justice Policy Council

Criminal Justice Policy Council

Final Action: Continue the Criminal Justice Policy Council for 12 Years with Changes.

H.B. 1155 by Hightower (Brown)

Report prepared by Steve Hopson

Major Provisions in the Final Sunset Bill

In House Bill 1155, the Legislature adopted the recommendations of the Sunset Commission to remove the non-functioning Board of the Criminal Justice Policy Council, strengthen the agency's accountability to the Legislature, and continue the agency for 12 years. The following material provides detail on the major provisions of the bill.

Sunset Provisions

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

The Legislature adopted the recommendation of the Sunset Commission to eliminate the Criminal Justice Policy Council's Board because it is not a functioning Board and has not met in 11 years. In place of the Board, the Legislature further agreed with the Sunset recommendation to establish additional mechanisms to promote accountability between the agency and the Governor and Legislature. Specifically, the bill allows the Governor — instead of the Board — to establish advisory bodies to guide the agency when needed. In addition, the bill requires the Executive Director to consult the Governor, Lieutenant Governor, the Speaker of the House, and the appropriate House and Senate criminal justice committee chairs in establishing research priorities. The Legislature expanded this consultation requirement to include the chairs of House Appropriations and Senate Finance Committees.

2. Continue the Criminal Justice Policy Council for 12 years.

Because of the size and complexity of the state's criminal justice system, the state has a continuing need to plan for its future and to know that the system is operating efficiently and effectively. The Policy Council has the expertise to provide the objective analysis that is needed to guide the state's criminal justice policies. Further, the Policy Council, as an independent agency, is well positioned to perform this task. Because of the importance of objectivity in evaluating criminal justice issues, this analysis should be performed by an agency that does not have a stake in the results. The Legislature adopted the recommendation of the Sunset Commission to continue the Criminal Justice Policy Council for 12 years.

Legislative Change

The Legislature added no new major provisions to the bill.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

CRIMINAL JUSTICE POLICY COUNCIL H.B. 1155 by Hightower (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 11 thru Page 2, Line 2 Page 2, Line 7 thru Page 2, Line 19	Abolishes Criminal Justice Policy Council Board.
Page 2, Line 6	Continues the agency for 12 years.
Page 2, Line 20 thru Page 2, Line 24	Adds standard language developed by the Sunset Commission to require appointments as Executive Director to be made without regard to race, color, disability, sex, religion, age or national origin.
Page 2, Line 25 thru Page 3, Line 10	Adds standard language developed by the Sunset Commission to prohibit appointment as an Executive Director if the person or the person's spouse conducts business with the agency.
Page 3, Line 15 thru Page 3, Line 24	Adds standard language developed by the Sunset Commission to define the grounds for removing an Executive Director.
Page 4, Line 1 thru Page 4, Line 5	Adds standard language developed by the Sunset Commission to require the Executive Director to inform employees of the qualifications for employment and each person's responsibilities under the law.
Page 4, Line 6 thru Page 4, Line 10	Adds standard language developed by the Sunset Commission to require the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the agency and require intra-agency postings of job openings concurrently with any public posting.
Page 4, Line 11 thru Page 4, Line 15	Adds standard language developed by the Sunset Commission to require the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 4, Line 16 thru Page 5, Line 14	Adds standard language developed by the Sunset Commission to require the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.

CRIMINAL JUSTICE POLICY COUNCIL H.B. 1155 by Hightower (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 5, Line 15 thru Page 6, Line 15	Adds standard language developed by the Sunset Commission to prohibit the Executive Director, the Executive Director's spouses, and employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as Executive Director or from being employed as the agency's general counsel. Also defines Texas trade association.
Page 6, Line 16 thru Page 8, Line 21	Allows for Governor-appointed advisory Boards and requires the Executive Director to consult with legislative officials when setting research priorities.
Page 8, Line 22 thru Page 8, Line 24	Adds standard language developed by the Sunset Commission to require the agency's funds to be managed in accordance with the State Funds Reform Act.
Page 8, Line 25 thru Page 9, Line 2	Adds standard language developed by the Sunset Commission to require the agency to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 11, Line 19 thru Page 11, Line 25	Adds standard language developed by the Sunset Commission to require the agency to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs.
Page 11, Line 25 thru Page 12, Line 10	Adds standard language developed by the Sunset Commission to require the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures.
Page 12, Line 11 thru Page 13, Line 6	Adds standard language developed by the Sunset Commission to require the agency to collect and maintain information about all complaints filed with the agency. Requires the agency to maintain files on written complaints that the agency has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 13, Line 7	Establishes the effective date of the Act as September 1, 1997.
Page 13, Line 8	Emergency clause.

Texas Commission on Fire Protection

Texas Commission on Fire Protection

Final Action: Continue the Commission on Fire Protection for 12 Years and Transfer the Office of the State Fire Marshal to the Commissioner of Insurance.

S.B. 371 by Armbrister (Telford)

Report prepared by Larry Graham

Major Provisions in the Final Sunset Bill

Senate Bill 371 continued the Texas Commission on Fire Protection for 12 years but made significant changes to the agency's policymaking and operating structure. Because of legislative concerns about agency management, oversight of the State Fire Marshal's Office was transferred back to the Commissioner of Insurance, where it was located until 1991. The bill also focused on making the Commission more open to public input and on bringing the Commission's use of advisory committees in line with the way other state agencies use advisory committees. The Legislature made changes to improve the Commission's policymaking ability by adding public members to the Commission and giving it full authority to adopt rules and more flexibility to appoint its advisory committees. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes modifications and additional provisions added during the legislative process.

Sunset Provisions

1. Continue the Texas Commission on Fire Protection, with changes to its structure.

The Legislature continued the Commission for 12 years, but made significant changes to its operating structure. The Legislature transferred the Office of the State Fire Marshal to the Commissioner of Insurance. Under this transfer, the current responsibilities of the State Fire Marshal relating to investigating arson fires, performing studies of fire protection, conducting research, and providing assistance to public or non-profit entities will be transferred to the Department of Insurance. In addition, the State Fire Marshal will assume other responsibilities currently administered by the Commission and relating to the Texas Fire Incident Reporting System. Finally, the Legislature transferred the authority to administer the fire alarm,

fire extinguisher, fire protection (sprinkler) and fireworks statutes to the Commissioner of Insurance.

2. Improve rulemaking by giving the Commission and the Insurance Commissioner complete authority to adopt rules. In addition, improve advisory committee accountability by revising the process used to select advisory committee members.

The Legislature adopted the Sunset Commission's recommendation that gives the Commission full authority to adopt rules, with appropriate modifications to reflect the transfer of the State Fire Marshal's Office. These changes were made to remove the limitations imposed on the Commission's rulemaking authority by the advisory committees and make the Commission's and the Insurance Commissioner's rulemaking authority consistent with other state agency boards and commissions

that use advisory committees. Currently, the Commission cannot modify rules submitted by advisory committees and cannot reject rules outright. The Commission will now have full authority to adopt, reject, and modify rules for its Fire Fighter and Funds Allocation Advisory Committees. The Commissioner of Insurance will have the same authority for its Fire Alarm, Sprinkler, and Fire Extinguisher Advisory Committees, but still may not modify or reject rules proposed by the Fireworks Advisory Committee.

In an effort to remove unnecessary restrictions on the Commission's ability to select advisory committee members and to remove undue influence of private industry groups, members of the Fire Fighter Advisory Committee will now be appointed by the Commission. In addition, the Insurance Commissioner will now appoint all five members of the Fireworks Advisory Committee, instead of the two appointments currently made by the Commission. While the Legislature will continue to allow the volunteer and paid fire fighter associations to appoint the members of the Funds Allocation Advisory Committee, it gave the Commission the authority to remove committee members.

3. Ensure the public's interests are represented by providing additional public representation on the Commission.

The Legislature adopted the Sunset Commission's recommendation to provide three additional members to represent the general public on the 12-member Commission. The Sunset Commission concluded that requiring public membership on the Commission would ensure a balance of public perspective with the current professional expertise. The Legislature was able to add public members to the Commission by reducing from three to two the seats reserved for chief officers, fire protection personnel, and volunteer fire fighters.

4. Remove the Commission's responsibility to perform Key Rate inspections.

The Legislature adopted the Sunset Commission's recommendation to eliminate the Commission's responsibility to perform Key Rate inspections, with modifications to reflect the transfer of the State Fire Marshal's office to the Commissioner of Insurance. The Sunset Commission made this recommendation because the Department of Insurance switched from the Key Rate schedule to the Fire Suppression Rating Schedule (FSRS) in early 1997. This change eliminated the need for Key Rate inspections.

The Legislature will allow the State Fire Marshal to perform duties relating to the new Fire Suppression Rating Schedule, as directed by the Commissioner. In addition, the State Fire Marshal may provide technical assistance to paid fire and volunteer fire departments responding to the switch from the Key Rate schedule to FSRS.

5. Reduce duplication by having one certification for both paid and volunteer fire fighters.

The Legislature adopted the Sunset Commission's recommendation to combine paid and volunteer fire fighter certification into one program. The Sunset Commission found that the requirements for the paid fire fighter certification program were the same as those for volunteer fire fighters. Combining the two certification programs will make the transition from certified volunteer to paid fire fighter easier for those choosing to have a career in the paid fire service. To combine the programs, the Legislature also removed employment as a requirement to maintain a paid fire fighter certificate. Finally, the Legislature combined the separate advisory committees for paid and volunteer fire fighters into one committee.

6. Allow the Texas Commission on Fire Protection to use criminal background checks completed by other agencies.

The Legislature enacted the Sunset Commission recommendation by outlining the conditions under which the Commission is authorized to obtain

criminal background information from other agencies on persons applying to the Commission for a license, permit or certification.

7. Require the Governor's Division of Emergency Management, in consultation with the Commission, to establish a statewide mutual aid program.

The Legislature modified the Sunset recommendation by requiring the Governor's Division of Emergency Management to continue their efforts to develop a statewide mutual aid program for fire emergencies, instead of requiring the Commission to initiate a mutual aid program.

Legislative Changes

1. Discontinue the terms of the sitting members of the Commission and require the Governor to appoint a new Commission.

The Legislature terminated the appointments of the 12 members of the Commission effective September 1, 1997. The Governor will be required to make 12 new appointments, but is not restricted from reappointing any current members.

2. Permit the Commission to hire no more than one attorney who will serve as the Commission's general counsel. Transfer the Commission's other two attorneys to the State Fire Marshal's Office.

As part of the transfer of the State Fire Marshal's Office to the Commissioner of Insurance, two of the Commission's attorneys will move with the State Fire Marshal and continue to work on legal matters for the Fire Marshal.

3. Allow approval of a fire alarm monitoring station if it meets standards that are substantially equivalent to those required for approval by a nationally recognized testing laboratory.

The Commissioner of Insurance may approve the operation of a fire alarm station that is not approved by a testing laboratory if the operator of the station can prove that its operating standards are substantially equivalent to those of a testing laboratory approved monitoring station.

4. Prohibit a local government that provided fire protection with fire protection personnel as of May 31, 1997 from privatizing its fire service without approval of the majority of the voters at an election called for that purpose.

Because the quality of fire protection is a matter of vital public safety, the Legislature decided that any move to privatize fire protection must be considered carefully. The bill requires any local government that wishes to privatize its fire protection after May 31, 1997, to call an election on the privatization question.

5. Amend the Insurance Code and make changes necessary to bring the Texas statute on fireworks into compliance with federal changes in labeling and regulations.

The Legislature updated the Texas statute to reflect developments in the pyrotechnics industry and made several regulatory changes in fireworks regulations.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a positive net fiscal impact to the state for the biennium ending August 31, 1999. The transfer of duties, powers, rights, obligations, contracts, records, property funds and personnel directly from the Commission to the Department of Insurance will have no significant fiscal implications. Similar annual fiscal implications are expected to continue as long as the provisions of the bill are in effect.

The provisions of the bill will generate savings in the amount of \$167,071 per year as a result of elimination of the Key Rate Strategy including a reduction of three FTEs to conduct key rate inspections and prepare recommendations to the Department of Insurance. An annual net revenue gain of \$30,000 per year will be raised through the application and issuance of an additional 1,500 fire fighting certificates at \$20 each. The additional certificates will be issued as a result of eliminating the employment requirement for recertification of paid fire fighters. In addition, provisions of the bill included a reduction in the cap for certain renewal fees from \$500 to \$250, resulting in a loss of \$2,750 per year.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact		
Fiscal Year	Gain/(Loss) to General Revenue Related Funds	Change in Number of State Employees from FY 1997
1998	\$194,321	-3.0
1999	\$194,321	-3.0
2000	\$194,321	-3.0
2001	\$194,321	-3.0
2002	\$194,321	-3.0

Bill Summary

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 11	Continues the Texas Commission on Fire Protection for 12 years.
Page 1, Line 17	The Commission is composed of 12 members—two chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief; two fire protection personnel with the rank of battalion chief or below; and two members who are volunteer fire chiefs or volunteer fire fighters. Each of the three fire service related professional associations may submit a list of five names to the Governor, with the Governor selecting two names from the lists. Adds <u>certified fire protection inspector</u> to the qualification for the seat now reserved for certified arson investigator.
Page 3, Line 5	Adds standard Sunset Commission language prohibiting appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry.
Page 3, Line 20	Adds language prohibiting a person or a person's spouse from serving as a public member if a person is a member of a paid or volunteer fire department.
Page 4, Line 2	Updates the standard Commission language defining the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission valid even if it is taken when a ground for removal exists for one of the members.
Page 4, Line 10	Adds standard Sunset Commission language requiring the Commission members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate.
Page 5, Line 22 Page 34, Line 16	Removes the Commission's authority to appoint the State Fire Marshal, to make or encourage studies of fire protection, conduct research, provide assistance to public or non-profit entities, and maintaining and administering TEXFIRS and transfers the authority to the Commissioner of Insurance.
Page 7, Line 6	Requires the advisory committees to have the opportunity to review and comment on rules before adoption by the Commission, except in emergency rulemaking situations.
Page 7, Line 13	The Commission may not adopt a rule, including an amendment to a rule, before the Commission meeting held after the Commission meeting at which the rule is first proposed.

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 7, Line 21	Updates standard language developed by the Sunset Commission requiring the Director or a designee to develop an intra-agency career ladder program. This program is now required to address mobility and advancement opportunities for employees within the agency and requires intra-agency postings of job openings concurrently with any public posting.
Page 8, Line 3	Updates standard language developed by the Sunset Commission requiring the Director or a designee to develop a system of annual performance evaluations to ensure that merit salary increases are based on documented employee performance.
Page 8, Line 10	Updates standard language developed by the Sunset Commission requiring the Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 9, Line 9 Page 79, Line 19	The Commission may hire no more than one attorney. This attorney will serve as the Commission's general counsel. The Commission's other two attorneys are transferred to the Commissioner of Insurance.
Page 9, Line 14	Updates standard language developed by the Sunset Commission requiring the Commission to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 10, Line 5	Updates the standard language developed by the Sunset Commission requiring the Commission to collect and maintain information about all complaints filed with the Commission. Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 11, Line 3	Requires the Commission to comply with state and federal laws concerning program and facility accessibility laws. Updates standard language developed by the Sunset Commission requiring the Commission to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 12, Line 6	Adds standard Sunset Commission language requiring the Commission to adopt rules establishing the criteria to be used in the evaluation of applications for grants and loans.
Page 12, Line 15	Three members of the Funds Allocation Advisory Committee are subject to removal by the Commission. The committee shall provide the Commission with full disclosure of the reasons of approval or disapproval of all applicants for funding.

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 12, Line 24 Page 20, Line 16	Provides the Commission full authority to propose, modify, adopt, or reject rules of the fire fighter advisory committee and the Funds Allocation Advisory Committee.
Page 13, Line 21	The Commission may not use money appropriated for scholarships, grants, or loans for the administrative expenses of the Commission or the Funds Allocation Advisory Committee.
Page 14, Line 11	A local government which provided fire protection with fire protection personnel as of May 31, 1997 may not privatize its fire service without approval of the majority of the voters at an election called for that purpose.
Page 15, Line 2	The Commission no longer is required to update its MOU with the Firemen's Training School and the Texas Forest Service on an annual basis.
Page 15, Line 15	The Commission, the State Fire Marshal, and the Texas Forest Service shall colocate office space outside of Travis County to the extent feasible.
Page 15, Line 23	Discontinues the terms of the sitting members of the Commission and requires the Governor to appoint a new Commission.
Page 16, Line 20 thru Page 18, Line 25	Removes all references to "fully-paid" fire protection personnel to comply with the new single fire fighter certification.
Page 19, Line 3 Page 41, Line 22 Page 51, Line 23 Page 54, Line 6 Page 72, Line 3	Adds standard Sunset Commission language that prevents the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 19, Line 18	The Fire Fighter Advisory Committee will consist of nine members appointed by the Commission: <ul style="list-style-type: none"> • six must be fire protection personnel, and • three members must be certified instructors of fire protection personnel. At least one member of the committee must be a volunteer.
Page 20, Line 25	The Commission by rule may establish a procedure to waive late fees of the required examination if a certificate has expired due to the hiring agency's good faith clerical error or due to termination of the person's employment as the result of a disciplinary action and the person has been restored to employment.

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 22, Line 2	Eliminates employment as a requirement to maintain a paid fire fighter certificate.
Page 23, Line 17 Page 23, Line 19 Page 31, Line 9	Requires the Commission to adopt rules specifying what it will consider to be satisfactory to complete the certification requirements. Also, the Commission may adopt rules to establish a procedure to recertify a volunteer or paid fire fighter if their certification has lapsed due to clerical error.
Page 24, Line 1 Page 43, Line 11 Page 52, Line 13 Page 54, Line 21 Page 76, Page 2	Adds standard Sunset Commission language entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 24, Line 16	Combines paid fire fighter certification and volunteer fire fighter certification into one certification program.
Page 30, Line 7	Permits certified volunteer fire fighters to renew their certificate without regard to whether the person continues to be affiliated with a volunteer fire department.
Page 31, Line 22	Eliminates the requirement that the Commission perform their own criminal background checks on individuals seeking certification or licensure.
Page 33, Line 16 Page 33, Line 22	Consolidates the fire protection personnel advisory committee and the volunteer fire fighter advisory committee into a single fire service advisory committee. The fire protection personnel advisory committee and the volunteer fire fighter advisory committees are abolished.
Page 35, Line 3 Page 60, Line 20	Along with the state fire marshal, the authority to administer the fire alarm, fire extinguisher, fire protection (sprinkler) and fireworks statute is transferred to the Commissioner of Insurance.
Page 39, Line 12	The State Fire Marshal shall perform duties as directed by the Commissioner. The State Fire Marshal may provide technical assistance to paid fire departments, volunteer fire departments responding to the use of the fire suppression ratings schedule.
Page 42, Line 22 Page 51, Line 7 Page 52, Line 25 Page 61, Line 12	Members of the Fire Extinguisher Advisory Council, Fire Alarm Advisory Council, Fire Protection (sprinkler) Advisory Council, and the Fireworks Advisory Council are appointed by the Commissioner of Insurance.

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) Enrolled Version	
Bill Reference	Bill Provision
Page 42, Line 24 Page 51, Line 3 Page 53, Line 23 Page 61, Line 21	Provides the Commissioner full authority to propose, modify, adopt, or reject rules of the Fire Extinguisher, Fire Protection (sprinkler), and Fire Alarm Advisory Councils. In the case of the regulation of the fireworks industry, limiting the Commissioner of Insurance to adopting rules or rule changes that have been approved by the Fireworks Advisory Council.
Page 44, Line 13	<ul style="list-style-type: none"> • The renewal fee for a person or organization engaged in the business of planning, installing, certifying, leasing single station devices shall be in an amount not to exceed \$250. • A registered person or firm shall have at least one fire alarm technician, residential fire alarm superintendent or fire alarm planning superintendent. • A registered person or firm that is only engaged in the business of single station devices shall not be required to apply for or obtain a branch office registration certificate for a separate office or location of the registered firm.
Page 46, Line 21	Allows licensed fire alarm technicians, residential fire alarm superintendents and fire alarm planning superintendents to renew their licenses if they are not employed.
Page 47, Line 4	Allows training schools to offer courses to individuals who wish to be licensed as a fire alarm technician, residential fire alarm superintendent, or fire alarm planning superintendent.
Page 50, Line 16	The Commissioner of Insurance, in adopting standards applicable to any fire alarm device or equipment, may permit the operation of a fire alarm monitoring station that relies on fire alarm devices or equipment that is approved or listed by a nationally recognized testing laboratory, without regard to whether the monitoring station is approved or listed by a nationally recognized testing laboratory as long as the operator of the station demonstrates that its operating standards are substantially equivalent to those required in order to be approved or listed.
Page 55, Line 11	Amends 5.43-4, Insurance Code and makes non substantive changes necessary to bring the Texas statute on fireworks into compliance with federal changes in labeling, and regulations. In addition, updates the Texas statute to reflect developments in the pyrotechnics industry and makes several substantive regulatory changes in fireworks regulations.
Page 78, Line 14	Requires the Governor's Office, Division of Emergency Management, in consultation with the Commission, to develop a statewide mutual aid program.

TEXAS COMMISSION ON FIRE PROTECTION S.B. 371 by Armbrister (Telford) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 79, Line 11	The State Fire Marshal and the Commission on Fire Protection may continue to colocate office space within Travis County.
Page 80, Line 6	Establishes the effective date of the Act as September 1, 1997.
Page 80, Line 7	Emergency clause.

Department of Information Resources

Department of Information Resources

Final Action: Continue the Department of Information Resources for 12 Years with Changes.

S.B. 365 by Armbrister (Bosse)

Report prepared by Steve Hopson

Major Provisions in the Final Sunset Bill

Senate Bill 365 improves the ability of the Department of Information Resources (DIR) to safeguard the public's investment in information resources and assist state agencies in improving delivery of services to citizens through the use of technology. The Legislature agreed with the recommendations of the Sunset Commission that addressed improvements to the Department's oversight of information technology projects and state agency planning for information resources. To improve DIR's oversight of information technology initiatives, SB 365 grants DIR the statutory authority to operate a quality assurance process. To improve state agency planning, the bill revises the planning cycle for information resources to coordinate with the state's overall strategic planning cycle and directs the agency to improve the training and role of state agency information resources managers.

The Legislature also adopted the recommendations of the Sunset Commission to restructure the DIR Board. This change seeks to improve DIR's understanding of the needs of state agencies by adding state agency officials to the Board's composition. In recognition of the need for the functions that DIR provides, SB 365 continues DIR for 12 years. The following material provides more detail on the major provisions in the bill, both Sunset Commission recommendations and legislative changes.

Sunset Provisions

1. Revise the statewide planning cycle for information resources management to better coincide with the state's strategic budgeting cycle.

The statutorily-mandated timeframes for the state's strategic planning for information resources and the state's strategic planning and budgeting process do not coincide. The Legislature adopted the recommendation of the Sunset Commission to ensure that strategic planning for information resources matches the timeframe for the state's strategic planning and budgeting process. The provision will improve DIR's role in assisting the Legislature in the appropriations process by providing the agency with more current information about agency information resources plans.

2. Expand DIR's role in providing quality assurance assistance to state agencies.

The state's large investment in high-risk information technology projects is safeguarded by the quality assurance efforts of DIR and the State Auditor's Office. This quality assurance effort has helped state agencies develop better project plans, estimate project costs more accurately, and complete projects closer to schedule. However, DIR's assistance to agencies is based on a directive in an Appropriations Bill rider. The Legislature adopted the recommendation of the Sunset Commission to require DIR to establish model quality assurance guidelines for state agencies in statute. The quality assurance guidelines include requirements for agencies to determine the projected benefits and

budgets of computer systems, analyze and mitigate potential risks, and evaluate the effectiveness of systems after implementation. The legislation also requires DIR to offer technical assistance to state agencies in implementing the model guidelines and to verify that agencies are following the requirements.

3. Better address rapidly changing state agency telecommunication needs by focusing the duties of the telecommunications planning group.

Current planning for the state's internal telecommunications functions is carried out by a multi-agency council. The Sunset review of this function found that current statutes providing for the Telecommunications Planning Group are inconsistent, lack a complete set of duties and reporting requirements, and are missing certain common operating mechanisms. In SB 365, the Legislature adopted the recommendation of the Sunset Commission that established the Telecommunications Planning Group in a single statute with a membership of DIR, GSC, and the Comptroller. The bill also repealed the conflicting language and requirements found in the current separate statutes. The provision requires the Telecommunications Planning Group to biennially report to the Legislature on its progress towards achieving a single centralized telecommunications network for state government.

4. Enhance the training and role of state agencies' information resources managers.

Current law requires each state agency to designate an Information Resources Manager (IRM) who is responsible for the strategic planning of information resources within the agency. To be successful in this role, an IRM needs to be well-trained and well-informed of the agency's future plans. Unfortunately, many of the state's IRMs do not receive the necessary continuing education to stay current with trends in the computer industry and are not sufficiently well-integrated in the agency's

executive management to be aware of the agency's business needs. To ensure that IRMs keep their technology skills up-to-date, SB 365 requires DIR to conduct a training needs analysis, base its IRM training program on that analysis, and establish mandatory continuing education requirements for IRMs. To ensure that IRMs make technology decisions with a clear understanding of the agency's business needs, the bill requires each state agency to have its IRM report directly to the agency's executive management.

5. Restructure DIR Board membership to reflect recent legislative changes in DIR's mission.

DIR is governed by a nine-member Board appointed by the Governor. Two of these members must be legislators. The required legislative members are a hold-over from when DIR approved state agency technology procurements. Today, DIR is focused on strategic planning for information resources. The Legislature adopted the recommendation of the Sunset Commission to change the make-up of the DIR Board to better reflect its current mission and SB 365 removes the requirement that two members be legislative members. As DIR's current mission focuses on assisting state agencies in planning for information resources, the bill adds the Executive Directors of three state agencies to serve, on a rotating basis, as nonvoting, ex officio members to provide the DIR Board with greater knowledge of state agency operations.

6. Continue the Department of Information Resources for 12 years.

DIR was formed by the Legislature to inform the state leadership, establish the statewide direction and assist state agencies on information resources management. As state government is reliant upon information systems for its operations, a need exists to continue these functions. The Legislature adopted the recommendation of the Sunset Commission to continue DIR for 12 years.

7. Improve state agency cost analysis of alternative methods of creating new information systems.

When designing new information systems, state agencies make many important decisions with long-term implications. These decisions, on matters such as whether to contract out for system design or to do the work in-house and whether to purchase or lease computer equipment, can have a large fiscal impact on the state for many years. Often these decisions are made without an adequate study of the alternatives. To ensure that state agencies are comparing alternate means of acquiring computer systems, the Legislature adopted the recommendation of the Sunset Commission to require state agencies to compare the benefits of using in-house expertise with those of outside contractors and to compare the lifecycle costs of leasing with that of purchasing new computer systems. The legislation also requires DIR to assist the Legislative Budget Board in evaluating the results of these studies.

Legislative Change

1. Require state agencies to establish an Internet electronic mail address for the agency.

Provision of electronic mail, or E-mail, can allow citizens an additional means of communicating with state agencies. Currently about 170 of Texas' 225 state agencies have E-mail addresses. SB 365 requires all state agencies to establish Internet electronic mail addresses and permits agencies to publish these addresses for the public's use. DIR may assist agencies with the technical aspects of establishing the E-mail address.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a net negative fiscal impact for the biennium ending August 31, 1999. Similar fiscal implications are expected to continue as long as the provisions of the bill are in effect.

The recommendation to expand quality assurance assistance to state agencies requires the funding of three additional Systems Analyst II positions, resulting in an annual cost to general revenue of \$126,933, for salaries, benefits, and supplies. DIR has already done extensive work in establishing guidelines for quality assurance procedures. These guidelines could be modified for use by state agencies at no significant expense.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact		
Fiscal Year	Gain/(Loss) to General Revenue Fund	Change in Number of State Employees from FY 1997
1998	(\$126,933)	+3.0
1999	(\$126,933)	+3.0
2000	(\$126,933)	+3.0
2001	(\$126,933)	+3.0
2002	(\$126,933)	+3.0

Bill Summary

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 9	Continues the Department of Information Resources for 12 years.
Page 1, Line 13 thru Page 3, Line 4	Removes requirement for the Governor to appoint DIR Board members from lists supplied by the Lieutenant Governor and the Speaker of the House. Removes requirement that two members be legislators and adds the Directors of three state agencies to serve on a rotating basis as nonvoting, ex officio members. Establishes the selection process for the agency Directors by specifying that Directors of the Texas Workers' Compensation Commission, Department of Health and Human Services, and Texas Department of Transportation serve for two years; Directors of the Central Education Agency, Department of Criminal Justice, and Parks and Wildlife Department serve for two years; and Agency Directors' slots rotate thereafter between the groups every two years. Allows the agency Directors to designate their agencies' information resources managers to represent them at Board meetings.
Page 3, Line 5	Adds standard language developed by the Sunset Commission to require appointments to the Board be made without regard to race, color, disability, sex, religion, age or national origin.
Page 3, Line 8 thru Page 4, Line 14	Adds standard language developed by the Sunset Commission to require a voting or nonvoting Board member to complete training within 180 days after the date on which the person take office or begins serving as a member of the Board. Also, allows a Board member to be reimbursed for travel expenses incurred while attending the training. Removes the requirement that members must complete training before being confirmed by the Senate.
Page 5, Line 21 thru Page 6, Line 14	Adds standard language developed by the Sunset Commission to prohibit Board members and employees, compensated at group 17 or above, from being spouses of officers, employees or paid consultants of related trade associations or business entities with a substantial interest in information resources and that may contract with state government. Also defines trade association.
Page 6, Line 23 thru Page 7, Line 3	Adds standard language developed by the Sunset Commission to define the grounds for removing a Board member and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members.

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 7, Line 7	Adds standard language developed by the Sunset Commission to require the Board to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 7, Line 13	Adds standard language developed by the Sunset Commission to require the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the department.
Page 7, Line 19	Adds standard language developed by the Sunset Commission to require the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.
Page 8, Line 2	Adds standard language developed by the Sunset Commission to require the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the department and requires intra-agency postings of job openings concurrently with any public posting.
Page 8, Line 11 thru Page 9, Line 15	Modifies standard language developed by the Sunset Commission by requiring the Executive Director or a designee to comply with state laws, rules, regulations and instructions when developing an equal employment policy. Removes the reference to state and federal guidelines.
Page 9, Line 19	Adds standard language developed by the Sunset Commission to require the Board's funds to be managed in accordance with the State Funds Reform Act.
Page 9, Line 22 thru Page 10, Line 2	Adds standard language developed by the Sunset Commission to require the Board to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 10, Line 3	Adds standard language developed by the Sunset Commission to require the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the department.
Page 10, Line 7	Adds standard language developed by the Sunset Commission to require the Board to prepare and distribute information to the public concerning the department's functions and complaint procedures.
Page 10, Line 25 thru Page 11, Line 4	Adds standard language developed by the Sunset Commission to require the department to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the department's programs.

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 11, Line 5 thru Page 12, Line 2	Adds standard language developed by the Sunset Commission to require the Board to collect and maintain information about all complaints filed with the Board. Requires the Board to maintain files on written complaints that the Board has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 12, Line 5 thru Page 13, Line 25	<p>Requires DIR to conduct a training needs analysis of the state's information resources managers (IRMs) and adjust its training program based on the results of the analysis.</p> <p>Requires DIR to establish mandatory continuing education requirements for information resources managers, and require IRMs to report on compliance with the requirements.</p> <p>Requires DIR, when designing its mandatory IRM training, to include segments on implementation of quality assurance programs, training of end-users, and balancing technical aspects of information systems with agency business needs.</p> <p>Requires each state agency to have its IRM report directly to executive management, and report its compliance to DIR.</p> <p>Requires DIR to report to the Legislature on the results of agencies' progress toward having IRMs as part of their executive management teams.</p>
Page 14, Line 8 thru Page 15, Line 15	<p>Requires DIR to set the date for issuance of information resources strategic plan instructions in rule and removes existing provision that sets a specific date for issuing instructions on February 1 of each even-numbered year.</p> <p>Requires agencies to submit information resources strategic plans on a date set in rule by DIR, removes existing provision that sets a specific date for submittal of these plans by January 1 of each odd-numbered year, and requires DIR set an agency information resources plan submittal date on a date that coincides with the date in which the agency is required to submit its strategic plan.</p> <p>Requires DIR to review, approve or disapprove an agency's information resources strategic plans within 90 days of submission and removes the provision that sets the review, approval or disapproval date on April 15 of each odd-numbered year.</p> <p>Requires agencies to amend their biennial operating plans when including significant new or changed technology initiatives in their legislative appropriations requests.</p>

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 15, Line 23 thru Page 16, Line 12	Requires agencies that are proposing new informational systems to study the comparative benefits of using in-house expertise compared to an outside contractor for system design, and the lifecycle costs of leasing compared to purchasing the proposed system. Requires DIR to assist the Legislative Budget Board in evaluating the results of these studies as a part of the appropriations process.
Page 16, Line 23 thru Page 17, Line 6	Requires state agencies to establish an Internet electronic mail address for the agency. State agencies may publish an electronic mail address and use it to communicate with the public. DIR may help agencies establish an electronic mail address. Also defines Internet.
Page 17, Line 9 thru Page 19, Line 17	Requires DIR, by rule, to establish model guidelines for use by state agencies in developing internal quality assurance procedures. Requires DIR to establish a comprehensive technical assistance program on quality assurance for all state agencies. Grants DIR rulemaking authority to exempt certain state agency information resources projects that fall below the minimum costs and risk thresholds established by DIR. Requires Information Resources Managers (IRMs) to develop a quality assurance review process based on the model guidelines adopted by DIR and to demonstrate use of quality assurance methods as part of the agency's biennial operating plan submitted to DIR. Authorizes DIR to make formal recommendations to state agencies in regard to a state agency's need to initiate quality assurance review efforts, requires DIR to report on state agency progress in developing quality assurance review methods in its biennial report to the Governor and Legislature on Information Resources Management.

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 19, Line 20 thru Page 23, Line 8	<p>Establishes the telecommunications planning group as a single entity established in a single statute with a set membership composed of the Comptroller of Public Accounts, the Executive Director of the Department of Information Resources, and the Executive Director of the General Services Commission and with the authority to elect a Chair.</p> <p>Adds the Executive Directors of the Telecommunications Infrastructure Fund and the State Library and Archives Commission to the telecommunications planning group's list of advisory agencies.</p> <p>Clarifies the duties of the telecommunications planning group to require the group to make a comprehensive effort to collect and manage network configuration information about existing and planned telecommunications networks throughout the state.</p> <p>Requires biennial reports to the Legislature that detail the current telecommunications plan and the progress the state has made towards accomplishing its goals including recommendations for improvements.</p> <p>Grants the group sufficient authority to require needed information from state agencies to carry out its duties.</p> <p>Specifies that the group must post notices of its meetings using the procedures outlined in the state's open meetings law.</p>

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 23, Line 9	<p>Repeals five sections of the Government Code that is either reassigned in this bill or made unnecessary by other provisions. The effect of repealing each of these sections is explained below.</p> <p>2054.059 (a)-(e)</p> <p style="padding-left: 40px;">(a) Removes language relating to DIR’s responsibilities for establishing plans and policies for telecommunications services which is assigned to the telecommunications planning group in Section 2054.203(c).</p> <p style="padding-left: 40px;">(b) Removes language relating to the responsibilities of the department, comptroller and GSC in regards to telecommunications planning services for state agencies that is reassigned to the telecommunications planning group in Section 2054.203(d). Also removes provision establishing the Central Education Agency and the Texas Higher Education Coordinating Board as advisory agencies to the telecommunications planning group as those agencies are included in 2054.206.</p> <p style="padding-left: 40px;">(c) Removes language establishing DIR’s responsibilities for adopting policies and standards for telecommunications services that is relocated in Section 2054.203(e).</p> <p style="padding-left: 40px;">(d) Removes language establishing state agency responsibilities to comply with telecommunications rules, policies and standards adopted by DIR that is relocated in Section 2054.203(f).</p> <p style="padding-left: 40px;">(e) Removes language requiring the department to coordinate with the comptroller to achieve the goal of a single centralized telecommunications network that is reassigned to the telecommunications planning group in 2054.204(a).</p> <p>2054.075 - Removes language prohibiting members of the DIR Board from serving as the information resources manager of a state agency that is in conflict with this bill’s provisions establishing agency Executive Directors as DIR Board members.</p> <p>2170.054 - Removes language requiring the department, Comptroller and GSC to jointly develop functional requirements, requests for information and proposals, and to negotiate rates and execute contracts for a statewide system of telecommunications services for state agencies that is reassigned to the telecommunications planning group in Section 2054.205.</p> <p>2170.055 - Removes language establishing the Central Education Agency and the Texas Higher Education Coordinating Board as advisory agencies to the telecommunications planning group as these agencies are included in the list of advisory agencies established in 2054.206.</p>

DEPARTMENT OF INFORMATION RESOURCES S.B. 365 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 23, Line 11 thru Page 25, Line 1	<p>States that this section governs the transition from a nine-member governing Board to a Board with six voting members and two rotating groups of three nonvoting ex officio members and that the changes to Board member qualifications apply only to Board members appointed on or after September 1, 1997.</p> <p>Specifies that the three voting Board positions expiring February 1, 1999 are abolished on that date and that the two-year terms of the nonvoting ex officio group composed of the Executive Director of the Texas Workers' Compensation Commission, Commissioner of Health and Human Services, and the Executive Director of the Texas Department of Transportation begin on February 1, 1999 and expire on February 1, 2001. Also specifies that the two-year terms of the nonvoting ex officio group composed of the Commissioner of Education, the Executive Director of the Texas Department of Criminal Justice, and the Executive Director of the Parks and Wildlife Department begin on February 1, 2001.</p> <p>States that in appointing members to terms scheduled to begin February 1, 2001, the Governor shall appoint one member to a two-year term, one member to a four-year term, and one member to a six-year term and that in appointing members to terms scheduled to begin February 1, 2003, the Governor shall appoint one member to a two-year term, one member to a four-year term, and one member to a six-year term.</p>
Page 25, Line 2	Establishes the effective date of the Act as September 1, 1997.
Page 25, Line 3	Emergency clause.

Texas Commission on Jail Standards

Texas Commission on Jail Standards

Final Action: Continue the Texas Commission on Jail Standards for 12 Years.

S.B. 367 by Brown (Hightower)

Report prepared by John Hubbard

Major Provisions in the Final Sunset Bill

Senate Bill 367 continues the Texas Commission on Jail Standards (TCJS) for 12 years and makes several changes relating to private correctional facilities holding inmates from other states. Before passage of the bill, private prisons in Texas could contract with other states on their own to hold that state's inmates. However, these facilities had no clear authority to incarcerate inmates. Furthermore, no regulatory oversight of these facilities existed to ensure public safety or inmate welfare. The Legislature adopted the Sunset recommendation to establish a regulatory framework for private jails holding inmates from other states by requiring private jails to contract with the city or county in which they are located as well as the state from which they intend to receive inmates.

While the impetus for action was the desire to close the loophole that had allowed private facilities to house prisoners from other states without oversight by the State of Texas, the Legislature also added several provisions to the bill to clarify the authority of all entities—whether a city, county, or private vendor—to house prisoners from other states. Under this comprehensive approach, the Legislature basically placed in statute many of the requirements that TCJS already imposes in contracts by cities and counties to hold these prisoners from other states. Placing these requirements in statute will clarify the state's and the Commission's legal and regulatory authority over these entities, and it will ensure that adequate standards continue to be observed to protect the public safety.

The Legislature also added a provision to target TCJS inspections of facilities under its jurisdiction based on the compliance history of a facility and other criteria that TCJS may develop. As a result, TCJS has flexibility to target its resources toward facilities under its jurisdiction which consistently fail to meet standards established by TCJS. The following material provides more detail on the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature.

Sunset Provisions

- 1. Close a loophole that allows private corrections' facilities to escape regulation while accepting prisoners from other states and address the authority of counties and cities to hold prisoners from other states.**

The Legislature adopted the recommendation of the Sunset Commission to require private facilities to contract with a county or municipality before they

can hold prisoners from other states. However, the Legislature adopted the recommendation as part of a comprehensive approach to clarifying the authority of any entity to contract with other states to hold their inmates. The requirements for private facilities to contract with a county or city will enable these facilities to operate under the legal authority of local governments as agents of the state, subject to the same regulatory controls already imposed on facilities that contract with local governments. As recommended by the Sunset Commission, this requirement does not apply to facilities that only

contract to hold federal prisoners. However, TCJS must be notified before the facility begins to hold state, county or municipal inmates or inmates from other states so that the facility may be made subject to TCJS's regulation.

The Legislature agreed with the Sunset recommendation to impose requirements in contracts with these private facilities. However, under its comprehensive approach, the Legislature applied these requirements to contracts by all entities, including counties and cities. Specifically, the contract provisions must include:

- an emergency action plan to coordinate law enforcement activity in the case of an emergency;
- a method to reimburse the state for any services it provides during an emergency; and
- a process to return prisoners to the sending state if prior to release from custody.

The Legislature also adopted the Sunset recommendation authorizing TCJS to collect a fee from any private facility holding inmates from another state to offset the costs of regulation and technical assistance provided by TCJS.

The Legislature added other provisions to clarify the legal and regulatory authority of all entities to contract with other states to hold their prisoners. These provisions basically codify the requirements that are already included in contracts for holding inmates from other states. These requirements include:

- having TCJS ensure that the facility is secure enough to hold the types of inmates to be received;
- properly classifying inmates from other states according to TCJS's standards and ensuring that inmates are held in an appropriate custody level;
- prohibiting facilities from accepting inmates with a record of institutional violence or escape or attempted escape; and

- requiring all employees at the facility to maintain certification as required by the Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE).

Provisions were also added to establish a method for the state to access the beds in a private facility if the space was needed for Texas inmates and funds were available to pay the facility for use of the space.

Finally, the Legislature transferred from the Texas Department of Criminal Justice to TCJS the responsibility for regulating the number of federal prisoners and prisoners from other states housed in county, municipal and private contracted facilities.

2. Require the Commission to establish a system to target inspections of jails under its jurisdiction.

The Legislature adopted the Sunset recommendation to require the Commission to schedule announced and unannounced inspections of facilities under its jurisdiction based on past compliance with Commission standards and other criteria identified by the Commission. In this manner, TCJS can better target its resources toward facilities under its jurisdiction which consistently fail to meet standards established by TCJS.

3. Continue the Texas Commission on Jail Standards for 12 years.

The Legislature adopted the Sunset recommendation to continue TCJS for 12 years. By renewing the agency, the Legislature ensured the existence of continued oversight of the state's county jails as well as those municipal and private facilities that hold inmates from other states. Such oversight helps to ensure the public safety and avoids costly litigation involving county jails.

Legislative Changes

- 1. Clarify that an employee of a private facility housing inmates from other states does not need to be licensed by the Texas Board of Private Investigators and Private Security Agencies.**

The Legislature adopted a provision that clarified which state agency is responsible for regulating personnel employed by private facilities. Before the passage of SB 367, security personnel of private jails voluntarily sought certification from the Texas Board of Private Investigators and Private Security Agencies. However, this provision states that certification from this Board is not needed if an employee is required to maintain TCLEOSE certification by other provisions in this bill.

- 2. Clarify the state's authority as established in the Interstate Corrections Compact.**

The Legislature adopted a provision that specified that the provisions in the bill relating to county and municipal facilities contracting to house inmates from other states in no way interferes with the state's authority under the Interstate Corrections Compact (ICC). The ICC regulates how states, not counties or municipalities, can transfer inmates between compact members.

Fiscal Impact

This legislation will not result in significant fiscal impact to the state.

Bill Summary

TEXAS COMMISSION ON JAIL STANDARDS S.B. 367 by Brown (Hightower) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Lines 9-12 and 18 thru Page 2, Line 1 Page 10, Lines 9-11 and 16-22 Page 11, Lines 4-5 and Line 8 thru Page 12, Line 9 and Lines 13-21 Page 13, Line 15 thru Page 14, Line 17	Establishes requirements for counties and municipalities to fulfill before entering into a contract to house out-of-state inmates in addition to requirements during the execution of that contract. Also defines “correctional facility”, “federal prisoner” and “inmate.”
Page 2, Line 9	Updates TCJS’s Sunset date to September 1, 2009, which provides for the usual 12-year review.
Page 2, Line 20	Clarifies that four members of the Commission must be representatives of the general public.
Page 2, Line 24 thru Page 3, Line 1	Updates standard language developed by the Sunset Commission by removing the term “handicap” and replacing it with “disability” in language requiring non-discriminatory appointments.
Page 3, Line 2	Adds standard language developed by the Sunset Commission. Prohibits appointment as a public member if the person or the person’s spouse conducts business with the agency, or otherwise has financial ties to the regulated industry.
Page 3, Line 17 thru Page 4, Line 19	Adds standard language developed by the Sunset Commission. Requires Commission members to complete at least one course of training before assuming their duties and being confirmed by the Senate. Also allows a person appointed to the Commission to be reimbursed for travel expenses incurred from attending mandatory training.
Page 4, Line 25 thru Page 5, Line 5	Updates language developed by the Sunset Commission by requiring notification of the Attorney General if knowledge that a potential ground for removal of a Commission member exists and providing for the notification of the Governor and Attorney General if grounds for removal involve the presiding officer.

TEXAS COMMISSION ON JAIL STANDARDS S.B. 367 by Brown (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Page 5, Line 8	Updates standard language developed by the Sunset Commission to require the Commission to collect and maintain information about all complaints filed with the Commission.
Page 6, Line 1	Updates standard language developed by the Sunset Commission by requiring the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor’s Office.
Page, 9, Line 2	Requires the Commission to schedule announced and unannounced inspections of facilities under its jurisdiction based on past compliance with Commission standards and other criteria identified by the Commission.
Page 9, Line 8	Adds standard language developed by the Sunset Commission. Requires the Commission’s funds to be managed in accordance with the State Funds Reform Act. Deletes language regarding the jails standards inspection account in the General Revenue Fund that is obsolete because of funds consolidation.
Page, 9, Line 17 thru Page 10, Line 8, and Lines 13-15 and 23-25 Page 11, Lines 1-3 and 6-7 Page 12, Lines 10-12 and 21-24	Requires contracts between private facilities holding inmates from other states and the county or municipality in which that facility is located. The provisions in the contract include: <ul style="list-style-type: none"> • an emergency action plan to coordinate law enforcement activity in the case of an emergency, • a method to reimburse the state for any services it provides during an emergency, and • a procedure to return prisoners to the sending state prior to release from custody. This provision also authorizes TCJS to collect a fee from any private facility holding inmates from another state to offset the costs of regulation and technical assistance provided by TCJS.
Page 12, Line 25 thru Page 13, Line 7	Authorizes a county’s commissioner’s court, or the governing body of a municipality, to enter into contracts with a private vendor to hold inmates from other states despite provisions in the local government code relating to minimum purchasing and contracting provisions for counties or municipalities, and to county and municipal jails. This authority is only granted if the Texas Commission on Jail Standards (TCJS) reviews and approves the vendor’s qualifications to provide those services and the terms of the contract comply with all other provisions in the bill.

TEXAS COMMISSION ON JAIL STANDARDS S.B. 367 by Brown (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Page 13, Line 8	Specifies that an employee of a private facility housing inmates from other states does not need to be licensed under the Private Investigators and Private Security Agencies Act if the employee is required to maintain certification from the Texas Commission on Law Enforcement Officer Standards and Education by this Act.
Page 14, Line 18	Specifies that nothing in this Act should be construed to interfere with the state's rights, privileges and duties under provisions of the Interstate Corrections Compact.
Page 14, Line 24 thru Page 15, Line 5	Authorizes TCJS to require termination of a contract between a county or municipality and another state to house that state's inmates if 1) TCJS determines that the facility's space is needed by the State of Texas, and 2) money has been appropriated to compensate the facility for housing those Texas inmates.
Page 15, Line 16	Removes the statutory authorization given to the Texas Department of Criminal Justice to enforce the number of out-of-state inmates in county jails. This provision is given to TCJS Page 13, Line 21, thru Page 14, Line 2.
Page 15, Line 8	Specifies that the changes made in this Act relating to the qualifications of, and prohibitions applying to, members of the TCJS Board only apply to a member appointed on or after September 1, 1997. Specifies that a person serving on the Board September 1, 1997 may be reappointed to the Board if that person has the qualifications for a member as amended by this Act.
Page 15, Line 19	Establishes the effective date of the Act as September 1, 1997.
Page 15, Line 20	Emergency clause.

Texas Juvenile Probation Commission

Texas Juvenile Probation Commission

Final Action: Continue the Texas Juvenile Probation Commission for 12 Years with Changes.

H.B. 2073 by Hightower (Brown)

Report prepared by Mike Johnson

Major Provisions in the Final Sunset Bill

House Bill 2073 reflects the results of a more limited Sunset review of the state's juvenile justice system that was made necessary because the major overhaul of the system enacted last session was just taking effect during the Sunset review. As a result, the bill does not contain major changes to the system, but instead focuses on strengthening the Texas Juvenile Probation Commission's (TJPC's) oversight of state funds used by counties for juvenile justice services. By focusing state oversight on performance of services provided with state funds, the recommendations are intended to improve the quality of services provided to troubled youth across the state. The following material summarizes the major provisions in the bill that were originally recommended by the Sunset Commission and the major changes made to the bill by the Legislature.

Sunset Provisions

1. Continue the Texas Juvenile Probation Commission.

The Legislature adopted the Sunset Commission recommendation to continue the Texas Juvenile Probation Commission for the standard 12 years.

2. Require TJPC to adopt specific reporting and performance standards to better assess the quality of juvenile probation services provided by local probation departments.

The Legislature adopted the recommendation of the Sunset Commission that required TJPC to adopt standards regarding the collection and reporting of information about juvenile offenders by local juvenile probation departments. Such information is necessary to assess the overall performance of the juvenile justice system. The Legislature also required TJPC to adopt performance measures and case management standards for all services provided by local juvenile probation departments and to monitor local departments' compliance with the

standards. This change ensures TJPC evaluates the quality of services provided by local departments with state funds.

3. Ensure that TJPC continues to develop and maintain performance-based contracting practices to ensure proper use of state funds.

The Legislature adopted the recommendation of the Sunset Commission that required TJPC to develop a performance-based contracting system that holds county juvenile probation departments accountable for the services delivered with state dollars. The Legislature also required TJPC, in its contracts with county juvenile probation departments, to set measurable expectations (outcomes), clearly state the penalties and actions for failure to comply with the contract and clearly express any accounting, reporting and auditing requirements. The Legislature required counties to also use performance-based contracts in their dealings with service providers when using state funds, and to use the performance information when selecting providers in the future.

4. Strengthen the state's ability to identify the mental health needs of delinquent youth.

The Legislature adopted the recommendation of the Sunset Commission that requires juvenile probation departments to use a standard assessment tool developed by TJPC, or a similar tool approved by the agency, to assess the mental health status of youth as they first enter the juvenile justice system. Assessing the need for and providing appropriate services at an early stage is a key element to diverting youth from further criminal activity. The Legislature also required juvenile probation departments to report the information gathered from the tool to the Texas Juvenile Probation Commission.

5. Maximize the use of Medicaid to reduce health care costs for youth in the juvenile justice system.

The Legislature adopted the recommendation of the Sunset Commission requiring TJPC to assist counties to use federal Medicaid funds, where cost-effective, to provide health care for eligible youth in the juvenile justice system. Every state and local dollar saved by using Medicaid funds can be used for additional services to youth.

Legislative Changes

1. Establish requirements for contracts to house out-of-state juvenile inmates.

The Legislature added a provision requiring TJPC to develop rules, procedures, and minimum standards for counties, municipalities, and private correctional facilities that house out-of-state juvenile inmates. The provision authorizes only those private vendors that contract with a county or municipality to operate correctional facilities for out-of-state juveniles. Contracts for housing out-of-state juveniles would have to comply with TJPC minimum standards.

2. Increase county representation on the Commission.

The Legislature added a provision changing the composition of TJPC by requiring the appointment of one additional county judge or county commissioner, and by reducing the public membership from six members to five members. The Commission would now have two district court judges, two county judges or commissioners, court members, and five public members.

3. The Legislature removed the Sunset Commission recommendation for TJPC, jointly with the Texas Youth Commission (TYC), to establish county pilot programs to allow the pooling of state and local funds to provide services to youth in the juvenile justice system.

One provision of the bill that contained a Sunset Commission recommendation regarding an alternative funding pilot program was not adopted by the Legislature. The provision would have authorized a pilot program for counties to use state juvenile correctional funds (from TYC) in combination with other juvenile probation funding to provide additional community-level juvenile delinquency prevention and intervention services. The goal of the pilot was to determine the effectiveness and foresight of prevention programs in reducing the number of youth eventually committed to TYC. Participation in the pilot was to be voluntary and required approval of both TYC and the Texas Juvenile Probation Commission. The Legislature did not enact this recommendation primarily because of the uncertain fiscal impact that the pilot project would have had on TYC's budget.

Fiscal Impact

This legislation will not result in any fiscal impact to the state.

Bill Summary

TEXAS JUVENILE PROBATION COMMISSION S.B. 2073 by Hightower (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 9	Changes the composition of TJPC by allowing for the appointment of one additional county judge or county commissioner and by reducing the public membership from six to five.
Page 1, Line 14	Updates standard Sunset Commission language requiring appointments to the Commission be made without regard to race, color, disability, sex, religion, age, or national origin.
Page 1, Line 22	Continues the Texas Juvenile Probation Commission for 12 years.
Page 2, Line 1 thru Page 3, Line 4	Adds standard Sunset Commission language requiring the Commission to complete training before assuming their duties as Commission members.
Page 3, Line 7	Updates standard Sunset Commission language requiring the Governor to designate the presiding officer of the Commission.
Page 3, Line 14 thru Page 4, Line 7	Updates standard Sunset Commission language defining the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members.
Page 4, Line 11	Adds standard Sunset Commission language requiring the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Director and staff of the Commission.
Page 4, Line 15	Updates standard Sunset Commission language requiring the Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 4, Line 20	Updates standard Sunset Commission language requiring the Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 4, Line 25	Updates standard Sunset Commission language requiring the Director or a designee to inform its members and employees of the qualifications for office or employment and each persons responsibilities under the law.

TEXAS JUVENILE PROBATION COMMISSION S.B. 2073 by Hightower (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 5, Line 3	Updates standard Sunset Commission language requiring the Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 6, Line 3	Requires juvenile probation departments to use a standard assessment tool developed by the Commission, or a similar tool approved by the Commission, for the initial assessment of children under the jurisdiction of probation departments. Requires juvenile probation departments to report information obtained through the use of the assessment tool in a manner prescribed by the Commission.
Page 6, Line 22 thru Page 7, Line 10	Requires the Commission to adopt and enforce specific information collection and reporting standards for local juvenile probation departments. Requires the Commission to adopt performance measures and case management standards for all services provided by local juvenile probation departments and to monitor for compliance.
Page 7, Line 13 thru Page 8, Line 11	Requires the Commission to develop a performance-based contracting system that will evaluate county juvenile probation department performance and holds them accountable for the services delivered. Requires local juvenile probation departments contracts with private contractors to include performance measures.
Page 8, Line 12	Requires the Commission to, where cost-effective, use federal Medicaid funds to provide health care for eligible youth.
Page 8, Line 22	Adds standard Sunset Commission language requiring the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 9, Line 1	Requires TJPC to develop rules, procedures, and minimum standards for counties, municipalities, and private correctional facilities that house out-of-state juvenile inmates. Authorizes only those private vendors that contract with a county or municipality to operate correctional facilities for out-of-state juveniles. Contracts for housing out-of-state juveniles would have to comply with TJPC minimum standards.
Page 9, Line 15	Specifies that the changes to the Commission's composition apply only to Commission members appointed on or after September 1, 1997. Does not prohibit a person from being reappointed to the Commission, if the person meets the Commission member qualifications, as amended by this Act.

TEXAS JUVENILE PROBATION COMMISSION S.B. 2073 by Hightower (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 9, Line 27	Specifies the effective date of the Act as September 1, 1997.
Page 10, Line 1	Emergency clause.

**Commission on Law Enforcement Officer
Standards and Education**

Texas Commission on Law Enforcement Officer Standards and Education

**Final Action: Continue the Texas Commission on Law Enforcement
Officer Standards and Education for 12 Years with Changes.**

H.B. 1856 by Telford (Armbrister)

Report prepared by Rachelle Sanchez

Major Provisions in the Final Sunset Bill

House Bill 1856 continued the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) for 12 years and implemented other statutory changes recommended by the Sunset Commission. The nature of the Sunset Commission's recommendations for TCLEOSE was to improve the efficient use of agency resources and improve the availability of experience on the Commission. The current academy inspection process used by TCLEOSE did not focus its inspection efforts on poor performing academies, despite limited resources. Additionally, the Commission was losing much needed expertise and experience because every two years, one subgroup (supervisory officers, non-supervisory officers, or public members) rotated off the Commission. In addition to the Sunset Commission's recommendations, several other legislative changes were implemented in the final version of the bill including a requirement for increased training for peace officers and authority for the Commission to waive certain peace officer certification requirements. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes additional provisions added during the legislative process.

Sunset Provisions

1. Target limited inspection resources on academies that are performing poorly.

The Legislature adopted the recommendation of the Sunset Commission to develop a risk assessment tool for inspecting peace officer training academies. With only a limited amount of resources with which to inspect academies, focusing on poor performing or problem academies will improve the efficient use of those resources. The risk assessment tool will incorporate the results from the basic peace officer exam, past inspections, self assessments, and a random element to ensure every academy is inspected. TCLEOSE is required to allocate staff resources and set the schedule for inspections and technical assistance based on the results of the risk assessment tool.

2. Stagger the terms of Commission members to ensure continuity and experience on the Commission.

The Legislature adopted the recommendation of the Sunset Commission to require a Commission member from each subgroup to serve coinciding terms of office. Every two years, one supervisory officer, one non-supervisory officer, and one public member will rotate off the Commission to preserve a level of expertise to oversee agency operations. The effective date of the bill was set for August 29, 1997 to allow staggered terms to begin with the August 30, 1997 appointments.

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

The Legislature adopted the recommendation of the Sunset Commission to continue the Texas Commission on Law Enforcement Officer Standards and Education for the standard 12 years. Texas needs an independent agency to license and set standards for peace officers to ensure their minimum quality and competency.

Legislative Changes

1. Restrict public members from being associated with a law enforcement labor union.

The Legislature prohibited an officer, employee, or paid consultant of a law enforcement labor union from serving as a public member of the Commission.

2. Waive the weapons proficiency requirement for law enforcement officers if the requirement causes a hardship.

The Legislature authorized TCLEOSE to waive the weapons proficiency requirement if fulfilling the requirement causes a hardship for commissioned officers, such as those officers with disabilities.

3. Require training for peace officers on employment issues.

The Legislature required peace officers, before receiving their basic proficiency certificate, to obtain training on federal and state statutes regarding employment issues, including civil service, overtime, work-related injuries, and disciplinary actions. The language made the employing agency responsible for providing such training.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION H.B. 1856 by Telford (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 11	Updates the Commission's Sunset date to 2009.
Page 1, Line 14	Updates standard language developed by the Sunset Commission by requiring appointments to the Commission be made without regard to race, color, disability, sex, religion, age or national origin.
Page 1, Line 19 thru Page 2, Line 5	Staggeres the terms of Commission members by requiring one member of each subgroup on the Commission to rotate off every two years to ensure continuity and availability of experience.
Page 2, Line 5	Updates standard language developed by the Sunset Commission prohibiting appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or has financial ties to the regulated industry.
Page 2, Line 21	Prohibits an officer, employee, or paid consultant of a law enforcement labor union from serving as a public member of the Commission.
Page 2, Line 25 thru Page 4, Line 11	Updates standard language developed by the Sunset Commission prohibiting Commission members or their spouses and employees compensated at or above Group 17 in the General Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Commission or from being employed as the Commission's general counsel. Also defines Texas trade association.
Page 4, Line 15 thru Page 5, Line 12	Updates standard language developed by the Sunset Commission defining the grounds for removing a Commission member and requiring notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists.
Page 5, Line 15 thru Page 6, Line 18	Adds standard language developed by the Sunset Commission requiring the Commission to complete training to be eligible to take office as a member of the Commission.
Page 6, Line 21	Adds standard language developed by the Sunset Commission requiring the Governor to designate the presiding officer of the Commission.
Page 6, Line 27	Makes technical change renaming the Vice-Chairman as the assistant presiding officer.

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION H.B. 1856 by Telford (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 7, Line 7	Adds standard language developed by the Sunset Commission requiring the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission.
Page 7, Line 18	Makes technical change renaming the Chairman as the presiding officer.
Page 7, Line 27 thru Page 8, Line 4	Adds standard language developed by the Sunset Commission requiring the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Commission.
Page 8, Line 7	Adds standard language developed by the Sunset Commission requiring the Executive Director or a designee to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 8, Line 16	Updates standard language developed by the Sunset Commission requiring TCLEOSE to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 8, Line 27	Updates standard language developed by the Sunset Commission requiring the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within TCLEOSE and requires intra-agency postings of job openings concurrently with any public posting.
Page 9, Line 9	Updates standard language developed by the Sunset Commission requiring the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.
Page 9, Line 14 thru Page 11, Line 3	Updates standard language developed by the Sunset Commission requiring the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 11, Line 6	Adds standard language developed by the Sunset Commission requiring TCLEOSE to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION H.B. 1856 by Telford (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 11, Line 14 thru Page 12, Line 1	Requires TCLEOSE to base the schedule of academy inspections on performance and risk criteria including scores on the peace officer examination, past inspection records, self-assessments, and a random element for regular periodic inspections.
Page 12, Line 10	Waives the weapons proficiency requirement for law enforcement officers if the requirement causes a hardship (for example, for officers with disabilities).
Page 12, Line 18 thru Page 13, Line 13	Updates standard language developed by the Sunset Commission requiring TCLEOSE to collect and maintain information about all complaints filed with the Commission. Requires TCLEOSE to maintain files on written complaints that the Commission has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 13, Line 23 thru Page 14, Line 5	Makes technical change deleting language that entitles a person to a hearing only before the Commission and deletes old language relating complaints that is updated on Page 12, Line 18.
Page 14, Line 8	Adds standard language developed by the Sunset Commission entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 14, Line 24 thru Page 15, Line 13	Requires peace officers, before receiving their basic proficiency certificate, to obtain training on federal and state statutes regarding employment issues, including civil service, overtime, work-related injuries, and disciplinary actions. Makes the employing agency responsible for providing such training.
Page 15, Line 14	Specifies that the changes to the Commission member qualifications apply only to members appointed on or after August 29, 1997. Specifies that the Act does not prohibit reappointments to the Commission if the person meets the qualifications to serve.
Page 15, Line 26 thru Page 17, Line 2	Instructional provisions that set a schedule for Commission member appointments that stagger terms of office for each subgroup represented on the Commission.
Page 17, Line 3	Establishes the effective date of the Act as August 29, 1997.
Page 17, Line 4	Emergency clause.

National Guard Armory Board

National Guard Armory Board

Final Action: Continue the National Guard Armory Board for 12 Years with Changes.

S.B. 352 by Armbrister (Hightower)

Report prepared by John Hubbard

Major Provisions in the Final Sunset Bill

Senate Bill 352 continues the National Guard Armory Board (NGAB) for 12 years and clarifies the relationship between NGAB and the Adjutant General's Department. Due to the close interaction between NGAB and the Adjutant General's Department, and the fact that both agencies are closely associated with the Texas National Guard, confusion resulted over which agency was responsible for various functions. The bill redefines the relationship between these two agencies by reducing the direct influence the National Guard has on the Board and specifically defining actions for which NGAB is responsible in statute. The bill also attempts to minimize confusion regarding NGAB's mission by renaming it the Texas Military Facilities Commission effective September 1, 1997. The bill also clarifies and expands the authority of NGAB by authorizing the acquisition of property through leasing and direct exchange. Authorizing leasing and the direct exchange of property increases NGAB's flexibility to obtain property for armory construction. The following material provides greater detail on the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature.

Sunset Provision

1. Continue the National Guard Armory Board with certain changes.

The Legislature modified the Sunset Commission recommendation of a four-year renewal and provided NGAB with the standard 12-year renewal. The Legislature adopted the Sunset Commission's recommendation to restructure the Board to include one senior officer of the Texas National Guard, and five public members, two of which must have experience in architecture, civil engineering, or construction management. This restructured Board removes two senior members of the Texas National Guard from the Board thereby reducing the possibility of conflicts of interest and confusion over the role of the National Guard in NGAB's governance.

Legislative Changes

1. Clarify the authority of NGAB over all National Guard facilities owned by NGAB.

The Legislature adopted a provision that attempts to minimize confusion regarding authority over real property used by the Adjutant General's Department but owned by NGAB. The provision declares NGAB's control over all armories and facilities owned by NGAB.

2. Clarify the authority of NGAB to acquire real property through leasing.

The Legislature adopted a provision that specifically authorizes NGAB to obtain property through a lease. This provision specifically grants leasing authority that was otherwise only implied in statute. As a result, this provision allows NGAB to acquire the use of property which could not be obtained through purchase.

3. Expand the authority of NGAB to acquire property through exchanges.

The Legislature adopted a provision authorizing NGAB to obtain land by exchanging parcels of real property owned by NGAB for parcels of equal or greater value. The ability to exchange property increases NGAB's flexibility to obtain property for armory construction.

4. Change the name of the agency to the Texas Military Facilities Commission.

In an effort to reduce confusion with the Texas National Guard, the agency's name was changed to the Texas Military Facilities Commission effective September 1, 1997.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

NATIONAL GUARD ARMORY BOARD S.B. 352 by Armbrister (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Throughout the bill	Changes the name of the Texas National Guard Armory Board (NGAB) to the "Texas Military Facilities Commission."
Throughout the bill	Changes the title of the Executive Secretary of NGAB to the "Executive Director."
Page 2, Line 3 and Page 6, Line 1 thru Page 7, Line 3	Restructures NGAB's Board to include one senior officer of the Texas National Guard, and five public members, two of which must have experience in architecture civil engineering or construction management. Changes NGAB's Sunset date to September 1, 2009.
Page 2, Line 4	Removes provisions relating to the Open Meetings and Open Records Acts in this Chapter. The agency is still required to comply with these Acts under provisions within those Acts.
Page 2, Line 24 thru Page 3 Line 2	Applies standard language developed by the Sunset Commission that requires an appointment to the Board be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Page 3, Line 3	Applies standard language developed by the Sunset Commission that prohibits appointment as a public member if the person or the person's spouse conducts business with NGAB. Provides a definition of public member.
Page 3, Line 22 thru Page 4, Line 22	Updates standard language developed by the Sunset Commission that prohibits the Board members or their spouses, and employees compensated at or above Group 17 in the Appropriations Act or their spouses, from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Board or from being employed as NGAB's general counsel. Also defines Texas trade association.
Page 4, Line 23 thru Page 5, Line 1 and Page 8, Line 10	Applies standard language developed by the Sunset Commission that requires the Governor to designate the presiding officer of the Board.
Page 5, Line 2	Applies standard language developed by the Sunset Commission that requires the Board to be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate.

NATIONAL GUARD ARMORY BOARD S.B. 352 by Armbrister (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Page 7, Line 5 thru Page 8, Line 6	Applies standard language developed by the Sunset Commission that defines the grounds for removing a member of the Board and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members.
Page 8, Line 26 thru Page 9, Line 7	Applies standard language developed by the Sunset Commission that requires the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within NGAB and requires intra-agency postings of job openings concurrently with any public posting.
Page 9, Line 8	Applies standard language developed by the Sunset Commission that requires the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 9, Line 15	Applies standard language developed by the Sunset Commission that requires the Executive Director or a designee to provide Board members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page, 9, Line 21	Applies standard language developed by the Sunset Commission that requires the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of NGAB.
Page 9, Line 25 thru Page 11 Line 4	Modifies standard language developed by the Sunset Commission that requires the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. Also replaces the term, "guidelines" with, "laws, rules and regulations and instructions directly promulgated from those laws rules and regulations."
Page 11, Line 23 thru Page 12, Line 5	Applies standard language developed by the Sunset Commission that requires NGAB to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 12, Line 6	Clarifies the authority of NGAB over all National Guard armories, facilities, and modifications owned by the state on property owned by NGAB. Specifies that NGAB has the necessary authority to dispose of Texas National Guard and Texas State Guard real property.

NATIONAL GUARD ARMORY BOARD S.B. 352 by Armbrister (Hightower) Enrolled Version	
Bill Reference	Bill Provision
Page 12, Line 21	Applies standard language developed by the Sunset Commission that requires the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of NGAB.
Page 12, Line 25 thru Page 13, Line 12	Applies standard language developed by the Sunset Commission that requires NGAB to prepare and distribute information to the public concerning NGAB's functions and complaint procedures.
Page 13, Line 13 thru Page 14, Line 10	Applies standard language developed by the Sunset Commission that requires NGAB to collect and maintain information about all complaints filed with NGAB. Requires NGAB to maintain files on written complaints that NGAB has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition.
Page 14, Line 11	Modifies standard language developed by the Sunset Commission that requires NGAB's funds to be managed in accordance with the State Funds Reform Act.
Page 14, Line 15	Applies standard language developed by the Sunset Commission that requires NGAB to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to NGAB's programs.
Page 14, Line 22	Clarifies the authority of NGAB to acquire real property through leasing.
Page 17, Line 9	Requires NGAB to dispose of National Guard property in the best interest of NGAB, the Texas National Guard and its components and successors.
Page 18, Line 12	Expands the authority of NGAB to include exchanging property of equal or greater value.
Page 25, Line 25 thru Page 26, Line 11	Specifies that the changes made in this Act relating to the qualifications of, and prohibitions applying to, members of the NGAB Board only apply to a member appointed on or after September 1, 1997. Specifies that a person serving on the Board September 1, 1997 may be reappointed to the Board if that person has the qualifications for a member as amended by this Act.
Page 26, Line 12	Establishes the effective date of the Act as September 1, 1997.
Page 26, Line 13	Emergency clause.

Board of Pardons and Paroles

Board of Pardons and Paroles

Final Action: Continue the Board of Pardons and Paroles for Two Years to be Reviewed in Conjunction with the Review of the Texas Department of Criminal Justice.

H.B. 1386 by Gray (Brown)

Report prepared by Joe Walraven

Major Provisions in the Final Sunset Bill

In House Bill 1386, the Legislature lays the groundwork for the comprehensive analysis of the entire parole process in time for the next legislative session. Specifically, the Legislature agreed with the recommendation of the Sunset Commission to review the Board of Pardons and Paroles in the same time period as the Texas Department of Criminal Justice (TDCJ) in time for the 1999 session. This comprehensive review will enable the Legislature to evaluate the Board's activities in making parole and revocation decisions along with the TDCJ Parole Division's activities in supervising parolees. After this review, the Legislature will be prepared to make decisions on major operational and organizational issues that affect the entire parole process, including whether to consolidate the operations of the Board and the Parole Division under either the Board or TDCJ.

The Legislature also adopted the other recommendations of the Sunset Commission which address activities that are specific to the Board and involve no overlap with TDCJ. These changes enable the Board to take action now, before the 1999 session, to improve the parole policymaking process and to strengthen the training and technical support of parole revocation hearing officers. The following material provides more detail on the major provisions in the bill, as recommended by the Sunset Commission and adopted by the Legislature.

Sunset Provisions

1. Restudy the Board of Pardons and Paroles during the same time as the Texas Department of Criminal Justice Sunset review.

The Legislature adopted the Sunset Commission's recommendation that the Board be continued, but be restudied during the same time as the Texas Department of Criminal Justice in time for the 1999 legislative session. The specific statutory language places the Board on the same Sunset review timetable as TDCJ. Reviewing the Board along with TDCJ will allow a comprehensive evaluation of the efficiency and effectiveness of the entire parole process—including the supervision of parolees by the TDCJ Parole Division—and not just the Board's part. This comprehensive study is the best way to

address the relationship between the Board and the TDCJ Parole Division—including possible consolidation.

2. Restructure the Board of Pardons and Paroles to better support its present responsibilities and functions.

The Legislature adopted the Sunset Commission's recommendation to establish a six-member Parole Policy Board, appointed by the Governor from the existing Board membership. This Policy Board will assume the policymaking duties that are now exercised by the full 18-member Board, such as establishing the rules that guide the parole decision process. In addition, the Policy Board is responsible for updating the parole guidelines and developing policies to ensure their use; establishing caseload for its own members and the other Board members;

and improving the reporting of information on parole decisions, Board-member workloads, and the use of parole guidelines. The Policy Board is also authorized to hire a Board administrator who would be responsible for day-to-day operations. The Legislature added a provision to allow all Board members to participate in Policy Board meetings, but without voting. This change addressed concerns about Board members who are not on the Policy Board having to implement parole policies that they did not help develop.

3. Strengthen training and technical support for parole revocation hearing officers.

The Legislature adopted the Sunset Commission's recommendation to establish an enhanced training curriculum for new hearing officers and continuing education for all other hearing officers. In addition, the Legislature enacted the Sunset recommendation to improve the technical support of the hearings process by requiring a biennial update of the hearing officer procedural manual, including updated hearing precedents. Finally, access to the process by participants is improved by requiring the development of a plain language handbook explaining the revocations process.

Legislative Change

The Legislature added no new major provisions to the bill.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a negative net fiscal impact to the General Revenue Fund for the biennium ending August 31, 1999. Similar annual fiscal implications are expected to continue as long as the provisions of the bill are in effect.

The cost to the General Revenue Fund would result from the hiring of a Board administrator to assume the day-to-day responsibilities of the Board. Based on the current salary levels for the Board's general counsel and Director of hearings, this Board administrator's position is expected to have an annual cost of \$72,263 for salary, benefits, and supplies.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact		
Fiscal Year	Gain/(Loss) to General Revenue Funds	Change in Number of State Employees from FY 1997
1998	\$72,263	+1.0
1999	\$72,263	+1.0
2000	\$72,263	+1.0
2001	\$72,263	+1.0
2002	\$72,263	+1.0

Bill Summary

BOARD OF PARDONS AND PAROLES H.B. 1386 by Gray (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 8 Page 5, Line 23 thru Page 8, Line 4 Page 9, Line 8 and throughout bill	Establishes a six-member Parole Policy Board within the existing membership of the Board of Pardons and Paroles and makes it responsible for: <ul style="list-style-type: none"> • developing rules for parole and other policy decisions; • establishing caseload for Board members; • updating parole guidelines and developing policies for their use; • prescribing Board activity reports including information on decisions, workload, and use of parole guidelines; and • reporting annually to the Governor and the Legislature on parole decisions. Requires the Policy Board to hire a Board administrator to carry out functions of the Board not related to parole decision making. Also, specifies that members of the Board who are not members of the Policy Board may participate in Policy Board meetings, but do not have a vote.
Page 2, Line 13 thru Page 3, Line 7	Updates standard language developed by the Sunset Commission. Prohibits Board members or their spouses and employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board's general counsel. Also defines Texas trade association.
Page 3, Line 27 thru Page 4, Line 3; Page 4, Line 14	Updates standard language developed by the Sunset Commission. Defines a ground for removing a Board or Policy Board member based on the member's attendance at regularly scheduled Policy Board meetings, but deletes a provision for members' absences to be excused by a vote of the other members. Affirms that an action of the Policy Board is valid even if it is taken when a ground for removal exists for one of the members. Also provides for the general counsel to notify the Board's presiding officer who notifies the Governor and the Attorney General if knowledge that a potential ground for removal exists. Provides for the Board's general counsel to directly notify the Governor and Attorney General of any potential grounds for removal involving the presiding officer.
Page 4, Line 4	Adds standard language developed by the Sunset Commission. Requires the Board administrator to inform Board members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 5, Line 7	Provides for another Sunset review of the Board in conjunction with the Department of Criminal Justice Sunset review in 1999.

BOARD OF PARDONS AND PAROLES H.B. 1386 by Gray (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 8, Line 9	Adds standard language developed by the Sunset Commission. Requires the Policy Board to clearly separate its policymaking responsibilities from the management responsibilities of the Board administrator and staff of the Board.
Page 8, Line 13	Adds standard language developed by the Sunset Commission. Requires the Policy Board to prepare and distribute information to the public concerning the Board's functions and complaint procedures.
Page 8, Line 16 Page 8, Line 23	Adds standard language developed by the Sunset Commission. Requires the Policy Board to comply with state and federal program and facility accessibility laws and requires the Board administrator to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Board's programs.
Page 8, Line 18	Adds standard language developed by the Sunset Commission. Requires the Policy Board to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 8, Line 27 thru Page 9, Line 7	Modifies standard language developed by the Sunset Commission. Specifies that the Policy Board is subject to the open meetings law and the administrative procedure law as if it were a governmental body or state agency under those laws. Specifies that the application of the administrative procedure law to the Policy Board does not affect other provisions already in the Government Code exempting hearings and interviews conducted by the Board and the TDCJ Parole Division from administrative procedure provisions.
Page 9, Line 11 thru Page 10, Line 13	Modifies standard language developed by the Sunset Commission. Requires the Board administrator or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. Analyses and procedures included in this policy statement must meet federal and state laws, rules, and regulations, and instructions directly adopted under those laws, rules, or regulations.
Page 10, Line 14	Adds standard language developed by the Sunset Commission. Requires the Board administrator or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Board and requires intra-agency postings of job openings concurrently with any public posting.
Page 10, Line 19	Adds standard language developed by the Sunset Commission. Requires the Board administrator or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.

BOARD OF PARDONS AND PAROLES H.B. 1386 by Gray (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 11, Line 18 thru Page 12, Line 19	Adds standard language developed by the Sunset Commission. Requires Board members to be provided with adequate information and training to perform their duties before they are eligible to take office. Also adds language to allow appointees to be reimbursed for their travel expenses to attend a training program.
Page 16, Line 8 thru Page 17, Line 24	Requires newly-hired hearing officers to complete enhanced training curriculum complete before conducting unsupervised hearings and requires all hearing officers to complete annual training update. Requires the Policy Board to prepare a plain language handbook for participants in the hearing process and prepare and biennially update a procedural manual for hearing officers.
Page 17, Line 25 thru Page 18, Line 10	Provides the method for designating the initial Policy Board for staggered terms to be served concurrently with the members' terms on the full Board.
Page 18, Line 11	Specifies that the Policy Board must implement the training programs for hearing officers before June 1, 1998 and requires new employees hired on or after that date to complete the training before conducting a hearing. Specifies that the Policy Board completes a procedural manual and handbook for revocation hearings before June 1, 1998.
Page 18, Line 23	Specifies that rules, forms, or policies enacted by the Board of Pardons and Paroles are rules, forms, or policies of the Policy Board as of January 1, 1998.
Page 18, Line 26	Establishes the effective date of the Act as September 1, 1997.
Page 18, Line 27 thru Page 19, Line 4	Emergency clause.

State Preservation Board

State Preservation Board

Final Action: Continue the State Preservation Board for 10 Years with Changes.

H.B. 1107 by Telford (Moncrief)

Report prepared by Katherine Closmann

Major Provisions in the Final Sunset Bill

House Bill 1107 continues the State Preservation Board for 10 years and makes several statutory changes that will improve the agency's flexibility and accountability. First, the Legislature modified a Sunset recommendation that will allow the Governor, Lieutenant Governor, and Speaker of the House to designate representatives to act on their behalf during Board meetings. This added flexibility will allow consideration of important issues and decisions to go forward even when the whole Board cannot meet as a result of conflicting schedules. Additional opportunities for the Board to meet will become more important because of new responsibilities added by the 75th Legislature. In particular, the construction of the State History Museum and the transfer of custodial and maintenance responsibilities from the General Services Commission to the Preservation Board will require increased Board involvement and oversight. In addition, the bill provides more flexibility for the Board regarding the expenditure of funds from certain accounts in the Capitol Fund. As a result of the added responsibility and funds flexibility, the Sunset bill also provides for more oversight from the State Auditor. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes additional provisions added during the legislative process.

Sunset Provisions

1. Continue the State Preservation Board.

The Legislature adopted the Sunset Commission's recommendation that the State Preservation Board be continued for 10 years. A 10-year review period, rather than usual 12-year period, realigns its Sunset date with related agencies — the Texas Historical Commission, the Texas State Libraries and Archives Commission, and the Texas Commission on the Arts. Continuing the agency ensures the preservation of an historic landmark and ensures that the needs of visitors, occupants, and retailers in the Capitol complex are properly managed by one accountable agency.

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

The Legislature modified the Sunset Commission's recommendation to allow Board members to designate representatives to act on their behalf during Board meetings, including the ability to vote. The Sunset review found that the Preservation Board meets infrequently because of the busy schedules of its members. As a result, the Legislature decided to allow the Board members with the most stature, and presumably the busiest schedules, to designate a representative. Thus, the Governor, Lieutenant Governor and Speaker may designate representatives to act on their behalf during Preservation Board meetings. More frequent meetings will give legislators and

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

Legislative Changes

1. Allow instead of require the Board to hire an architect of the Capitol.

The Legislature felt that the Preservation Board should have the option of deciding whether having a full-time architect on staff is necessary or cost-effective in light of the recent completion of all restoration projects.

2. Exempt certain purchases from the State Purchasing and General Services Act.

The Executive Director, without following the requirements of the State Purchasing and General Services Act, may approve in writing the purchase of goods and services that cost \$15,000 or less, to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building.

3. Authorize the transfer of funds from the food service vendor account.

The Preservation Board has been able to use funds in the food service vendor account only for the purchase and maintenance of equipment and furniture related to food service in the Capitol. The Sunset bill provides more flexibility for the use of these funds. The bill authorizes the agency, with Board approval, to transfer balances over \$300,000 in the food service vendor account to another account and to spend the balance for any purpose within the Board's jurisdiction.

4. Clarify that funds in the gift shop account may be spent for the benefit of the contents and grounds of the buildings.

The Preservation Board has been able to spend money from the gift shop account on the Capitol complex buildings, but has not had clear direction to use these funds for the contents or grounds of the buildings. The Sunset bill clarifies that gift shop account funds may be used for the contents and grounds, as well as the buildings.

5. Authorize the transfer of funds from the news media fee account.

The Preservation Board has been able to use the funds in the news media fee account only to maintain and furnish the space rented to news media representatives. The Sunset bill provides more flexibility for the use of these funds. The bill authorizes the agency, with Board approval, to transfer balances over \$50,000 in the news media fee account to another account and to spend the balance for any purpose within the Board's jurisdiction.

6. Specify that the programs and funds of the Preservation Board are subject to audit by the State Auditor's Office.

The scope and frequency of the audits in the future will be determined in consultation with the Legislative Audit Committee. However, the Sunset bill requires that a one-time comprehensive audit be performed and reported to the Board and the Legislative Audit Committee by December 1, 1998.

7. Require the State Auditor to review the annual report on the Capitol Fund.

The State Preservation Board, as mandated by statute, prepares an annual report on the Capitol Fund. The Sunset bill requires the State Auditor to review the report annually and report any findings or recommendations to the Board and the Legislative Audit Committee.

- 8. Authorize the Board to develop and construct a State History Museum with funds appropriated for that purpose.**

Although the Sunset bill provides only the authorization for the construction of the State History Museum, the Legislature authorized an \$80 million bond issuance for its construction in the General Appropriations Act.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

STATE PRESERVATION BOARD H.B. 1107 by Telford (Moncrief) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 10	Continues the State Preservation Board for 10 years.
Page 1, Line 17	Allows the Governor, Lieutenant Governor and Speaker to designate representatives to act, including the ability to vote, on their behalf during Board meetings.
Page 2, Line 1	Allows instead of requires the Board to hire an architect of the Capitol.
Page 3, Line 19	Requires the State Auditor to review the annual report on the Capitol Fund prepared by the Preservation Board and to report any findings or recommendations to the Board and the Legislative Audit Committee.
Page 4, Line 6	Authorizes the Agency, with Board approval, to transfer balances over \$300,000 in the food service vendor account to another account and to spend the balance for any purpose within the Board's jurisdiction. Present law restricts use of the money only for the purchase and maintenance of equipment and furniture related to food service in the Capitol.
Page 4, Line 15	Allows the Agency to spend money in the gift shop account for the benefit of the contents and grounds of the buildings. Current law allows it to spend money only for the benefit of the buildings.
Page 5, Line 7	Authorizes the Agency, with Board approval, to transfer balances over \$50,000 in the news media fee account to another account and to spend the balance for any purpose within the Board's jurisdiction. Present law restricts use of the money to maintain and furnish the space rented to news media representatives.
Page 5, Line 13	Authorizes the Board to develop and construct a state history museum with funds appropriated for that purpose.
Page 5, Line 18 thru Page 6, Line 2	Specifies that the programs and funds of the Preservation Board are subject to audit by the State Auditor, with the scope and frequency of the effectiveness audits and economy and efficiency audits to be determined in consultation with the Legislative Audit Committee. Requires a comprehensive audit to be performed and reported to the Board and the Legislative Audit Committee by December 1, 1998.

STATE PRESERVATION BOARD H.B. 1107 by Telford (Moncrief) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 6, Line 3	Specifies that certain purchases are exempt from the State Purchasing and General Services Act. Specifically, allows the Executive Director to approve in writing the purchase of goods and services that cost \$15,000 or less, to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building.
Page 6, Line 11	Establishes the effective date of the Act as September 1, 1997.
Page 6, Line 12	Emergency clause.

Department of Protective and Regulatory Services

Department of Protective and Regulatory Services

Final Action: Continue the Department of Protective and Regulatory Services for 12 Years with Changes.

S.B. 359 by Brown (Gray)

Report prepared by John Hawkins and Zoe Messinger

Major Provisions in the Final Sunset Bill

Senate Bill 359 continues the Texas Department of Protective and Regulatory Services (PRS) for 12 years and implements statutory changes recommended by the Sunset Commission and includes several new provisions added by the Legislature. The bill reflects the Sunset Commission's vision for improving the way the agency delivers its services to the citizens of the state to protect children, the elderly, and the disabled from abuse and neglect. The bill also includes provisions to correct management problems at the agency and makes substantial changes in the regulation of child care.

The most significant provisions seek to strengthen PRS' ability to investigate abuse and provide needed rehabilitative services, to move abused children into permanent situations more quickly, and streamline the adoption process. These provisions achieve the dual benefit of doing what is best for children and saving the state money in the foster care system. The Legislature made changes that enhance the Sunset recommendations by making additional improvements in the following areas: (1) enhancing the coordination between PRS and law enforcement in investigating cases of abuse; (2) strengthening efforts to decrease false reports of child abuse and neglect; (3) balancing family preservation with initiatives to speed the permanent placement of children; (4) improving the purchase of substitute care services; and (5) improving coordination of child care facility inspections.

Senate Bill 359 ultimately represents the Legislature's effort to improve the care of the state's most vulnerable citizens and improve the operation of the state agency entrusted with that care. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes additional provisions added during the legislative process.

Sunset Provisions

1. Separate investigations and service delivery to increase protection of and services to victims of abuse and neglect.

The Legislature adopted the Sunset Commission's recommendation to require PRS, where possible, to separate investigations from the actual delivery of services to victims and their families. Currently, PRS caseworkers serve conflicting roles as both investigator and social worker. Separating these functions would provide focused and better trained

investigators while allowing social workers to concentrate on providing direct family services. Certain service regions of the state, primarily expansive but sparsely populated rural areas, may not have caseload requirements that justify separate staff. The bill provides PRS with the flexibility to retain general caseworkers to perform both functions in these areas.

2. Improve PRS' ability to protect children by providing flexibility to quickly and fully investigate reports of serious abuse or neglect.

Currently, PRS must thoroughly investigate all reports of child abuse or neglect that meet statutory definitions, regardless of severity. Full investigations of less serious problems divert already limited staff resources from serious cases of abuse and from service delivery. The Legislature adopted the Sunset Commission's recommendation authorizing PRS to establish a flexible response system, starting with a pilot program, to address reports of child abuse and neglect. The system will provide for full investigation of serious reports of abuse or neglect. For less serious reports, PRS would quickly assess the family situation and provide social services to the child and the affected family without involving them in a full-blown, adversary investigation.

3. Remove obstacles to allow quicker permanent placement for children in PRS conservatorship.

Children who remain in PRS' care for long periods of time are more susceptible to long-term emotional and behavioral problems and divert resources that could be used to care for other children in need. Currently, abused or neglected children often remain in PRS' care for long periods due to several statutory barriers such as the lack of a separate court hearing on a permanent home for the child, and the lack of legal grounds to terminate parental rights when parents do not adequately comply with the service plan to reunite the family. The Legislature adopted the Sunset Commission's recommendation to set a 12-month deadline for PRS to seek termination of parental rights or return a child to the family and to allow termination if a parent fails to complete the court-approved service plan. By determining permanency for the child at 12 months, abused or neglected children can be more quickly settled in a permanent, stable environment. In addition, the need for future hearings would be eliminated, reducing the burden on the courts. Under exceptional circumstances, and in keeping with the best interests of the child, a court could grant extensions.

4. Improve the legal representation of PRS in child protective cases in local courts.

The Legislature adopted a provision based on a Sunset staff recommendation to clarify that county attorneys must represent PRS in child abuse and neglect cases unless the district attorney elects to provide representation. The Legislature also added a provision specifying that if the county or district attorney cannot represent PRS because of a conflict of interest or special circumstances, the Attorney General's Office must either represent PRS or deputize a PRS attorney or an attorney under contract to PRS. These changes clarify an ambiguous statutory provision that had allowed many counties to refuse to represent PRS in court actions. PRS will now be able to have timely and competent legal representation to move abused children toward quicker permanent placement.

5. Require PRS to study the feasibility of special master court programs to speed the processing of child abuse cases.

Special court masters for child protective cases are dedicated courts that only handle child abuse cases and are another way to ensure resources are available to more quickly move children into permanent placements. The Legislature endorsed a management recommendation by the Sunset Commission regarding the use of special masters by including a provision in the bill authorizing the presiding judge of a court to appoint a master to handle child protective cases if the court needs assistance to process the cases in a reasonable time.

6. Improve PRS' use of standard assessment procedures to evaluate a child's needs before placement in foster care.

Standard assessment procedures are necessary to ensure accurate initial assessments and service plans. Appropriate initial assessments improve treatment, decrease the time children spend in care, and ensure that state resources are directed toward

meeting children's needs. Based on a management recommendation by the Sunset Commission to formalize the use of assessment services, the Legislature included language in the bill requiring PRS to use assessment services provided by a child care facility or child-placing agency before placing a child in substitute care. PRS must also regulate assessment services provided by child care facilities or child-placing agencies and it must specifically authorize a facility or agency to provide assessment services.

7. Improve PRS' adoption process through better coordination of adoptions and increased use of private adoption agencies.

Based on a Sunset Commission finding that PRS took too long to find permanent homes for adoptable children in many areas of the state, the Legislature adopted the Sunset recommendation to require PRS to monitor and enforce regional adoption performance goals and to increase the use of private adoption agencies. PRS must also begin efforts to find adoptive homes for abused or neglected children soon after deciding to seek termination of parental rights and must remove barriers that limit foster parents from adopting. The implementation of these recommendations will alleviate several problems identified with the Department's adoption process that contributed to children remaining in foster care too long without a permanent family.

8. Ensure both parents receive timely notice of investigations of child abuse.

The Legislature adopted the Sunset Commission's recommendation to require PRS to notify both parents, including a non-custodial parent, that a Departmental investigation has begun concerning their child. This change will clarify who is to be notified and will remove any confusion as to the timing of notification.

9. Ensure that PRS does not maintain records on individuals falsely accused of sexual abuse of a child.

The Legislature adopted the Sunset Commission's recommendation to require PRS to assist all individuals accused but cleared of a charge of sexual abuse of a child to expunge the Department's records on matters within PRS' jurisdiction from the case tracking database. This provision ensures that PRS will not continue to maintain records on individuals cleared of child abuse allegations after an investigation.

10. Ensure the court considers non-custodial parents as placement options for children removed from the home.

The Legislature modified a Sunset Commission recommendation to require the court, instead of PRS, to consider placing a child removed from the custodial parent for alleged abuse, with the non-custodial parent or a relative before placing the child in a foster care home, unless the court determines the placement is not in the best interest of the child.

11. Improve the way that PRS manages contracts for client services.

The Legislature adopted the Sunset Commission's recommendation to require PRS to set standards in contracts for client services that include clearly defined goals, outputs, and measurable outcomes that directly relate to the program objectives. The contracts must also contain clearly defined sanctions or penalties for noncompliance with contract terms and conditions. The Department must also use a risk assessment methodology to closely monitor compliance with both financial and performance requirements. This provision is consistent with broader legislative efforts to improve state agency contracting procedures.

12. Improve the foster care system by assessing the need for services statewide and measuring the quality of care through the contracting process.

The Legislature adopted the Sunset Commission's recommendation to require PRS to assess the need for foster care services throughout the state and contract with providers to match the needs identified. PRS must also take into consideration the local community's ability to support a facility and its clients before entering into a contract. PRS must structure its contracts for services so that providers are held accountable through measures that demonstrate effective foster care and ensure that performance is a factor in any future contract decisions. These provisions require PRS to implement a contracting process that allows the agency and the Legislature to evaluate the effectiveness of contracted foster care and lays the foundation for developing managed care initiatives to make the foster care system more cost-effective while maintaining high standards for care.

13. Improve the evaluation of the effectiveness of care in PRS foster homes.

Just as providers of contracted foster care will be held accountable for the children in their care, PRS should be held accountable for closely monitoring children in its foster homes. Based on the Sunset Commission's recommendation, the bill requires PRS to develop outcome measures for its agreements with PRS foster families. The outcome measures established by PRS for its contracted foster care providers will serve as the basis for measures that apply to children in PRS foster homes.

14. Enhance community support by requiring an evaluation of community impact before licensing foster care facilities.

The Legislature adopted the Sunset provision requiring PRS to notify community residents of a

pending foster care facility application and to conduct a public hearing on local community impact, support, and available resources before approving a license or expanding an existing facility. Additionally, the bill requires PRS to conduct an analysis of the local school district's ability to support a residential treatment center and its clients before entering into a contract with that facility. Evaluation of the community's capacity to support a facility and the school district's ability to serve the client of the facility is needed because local support and resources are critical to successful operation of residential treatment facilities.

15. Improve investigations of abuse, neglect, and exploitation in MHMR facilities and community centers.

The Legislature adopted the Sunset Commission's recommendation allowing PRS to prioritize investigations and requiring PRS and MHMR to develop and implement a shared system of tracking cases. The bill authorizes only MHMR's state office—not local facility or program directors—to overturn PRS' investigative findings, and only for documented reasons. These provisions formalize steps taken by both agencies to correct problems in the timeliness and quality of investigations which were the focus of media and legislative scrutiny.

16. Require PRS to better coordinate protective services with Mexican authorities.

The Legislature adopted the Sunset Commission's recommendation to require PRS to study the unique problems of protecting children and adults along the Texas-Mexico border. Based on its study, PRS must solve problems in delivering services to persons with foreign citizenship or clients in a foreign country. This provision also encourages long-term collaboration with Mexican authorities.

17. Require PRS to develop an outreach program to assist counties in accessing federal funds.

Presently, counties do not fully access federal dollars available to help defray costs associated with child and adult protective services. The Legislature adopted the Sunset provision requiring PRS to develop a standardized outreach program to give counties information and technical assistance on all federal funding resources available to them. PRS must also provide technical assistance, on request, to a county seeking federal funds.

18. Enhance quality of child care by providing PRS with authority to assess administrative fines when problems are found.

Currently, PRS does not have the flexibility to address less severe violations of the statute and rules regulating child care facilities without placing the facility on probation or closing the facility. The Legislature adopted the Sunset Commission's recommendation to authorize the Department to assess administrative penalties of up to \$100 per violation, per day for violations of state regulations. PRS must develop a schedule of fines tied to the severity and frequency of the offense and the number of repeat violations. PRS is also allowed to charge a licensed child care facility the reasonable cost of formulating, monitoring, and implementing corrective action plans to address licensing standards violations.

The Legislature added the following provisions regarding administrative penalties:

- providing a graduated scale for the maximum amount of administrative penalties the Department can assess based on the number of children receiving care;
- emphasizing that the Department should use non-monetary administrative penalties against child care facilities before monetary penalties when appropriate; and
- prohibiting administrative penalties from being assessed for clerical errors or violations of subjectively worded standards.

19. Provide consistency between the regulation of day care facilities and family homes.

Currently, statutory requirements for child care facilities are inconsistent with references to day care facilities and family homes. The Legislature adopted the Sunset Commission's recommendation to clarify when child care licensing regulations also apply to registered family homes. The Legislature included modifications to clarify that family homes containing children related to the caretaker are exempt from regulation. The bill also requires initial and periodic background and criminal history checks for individuals associated with regulated child care facilities and family homes. Clarifying when child care licensing regulations apply to registered facilities will ensure consistent regulation of both family homes and licensed facilities.

20. Improve the handling of complaints by developing a coordinated statewide complaint resolution process.

The Legislature adopted the Sunset Commission's recommendation to require the Department to develop a centralized complaint tracking system and a consistent, statewide complaint resolution process. Having a complaint tracking and resolution process will ensure complaints made against the Department are received and resolved consistently by the state office, the regions, and programs within the regions.

21. Increase return on technology investments through centralized accountability and management of information systems.

The Legislature adopted the Sunset Commission's recommendation to require the Department to establish an internal committee to coordinate the development and use of information technology. This provision provides a point of central accountability for information systems to evaluate and oversee implementation of all major automation projects.

22. Improve the administrative hearings process through transfer to the State Office of Administrative Hearings.

The Legislature adopted the Sunset Commission's recommendation to transfer the Department's administrative hearings to the State Office of Administrative Hearings (SOAH). This recommendation would transfer responsibility for all administrative hearings relating to contracts, license revocations, and the release of information to SOAH. The provision is consistent with the Legislature's policy to centralize hearing functions of most state agencies.

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

The Legislature adopted the Sunset Commission's recommendation to continue the agency for the standard 12-year period.

Legislative Changes

1. Improve training related to investigations of child abuse and neglect.

Knowledge of investigative techniques and the preservation of evidence improves the quality of child abuse cases presented to courts for action. The Legislature adopted a provision requiring PRS to provide joint training in the investigation of reports of child abuse or neglect to caseworkers and law enforcement personnel, where appropriate.

2. Revoke immunity for PRS employees who engage in illegal activities.

PRS employees are currently immune from civil or criminal liability for acts related to their job, if performed in good faith. The Legislature adopted a provision clarifying that Department employees are not immune from liability if they commit perjury, fabricate evidence, conceal or withhold information, or violate state or federal law while performing their duties.

3. Coordinate child care facility inspections by state agencies to eliminate duplicate inspections.

The Legislature required PRS to coordinate child care facility inspections performed by state agencies to eliminate redundant inspections. PRS is required to form an interagency task force with the Department of Health, the Department of Human Services, and the Workforce Commission to develop a coordinated inspection protocol. Additionally, PRS must establish a computerized database containing the information from each inspection of a child care facility and must share the data with other state agencies and the public when appropriate.

4. Strengthen provisions to protect elderly and disabled citizens.

The Legislature included several provisions related to the PRS Adult Protective Services program that were originally proposed in separate legislation. These provisions include expanding the lists of individuals who may be held liable for abuse of an elderly or disabled person, clarifying judicial authority and criteria to appoint PRS as a guardian, clarifying and expanding the responsibility to report suspected abuse or neglect to include medical and other professionals, and authorizing the Department to prioritize investigations.

5. Enhance penalties for false reports of child abuse.

The Legislature increased the penalty for a false report of child abuse from a Class B to a Class A misdemeanor. Additionally, the offense is upgraded to a state jail felony if the person has been previously convicted of a false report. The Legislature also clarified that a false report of abuse can also be grounds for modifying a court order relating to possession or access to the child.

6. Authorize pilot programs for investigation of child abuse by local law enforcement agencies.

The Legislature required PRS to enter into an agreement with a rural and urban county to have law enforcement agencies conduct investigations of child abuse in place of PRS investigations. The pilot must also include the participation of an independent local citizens review board composed of volunteers who represent the community to review the performance of the pilot.

7. Establish caseload standards advisory committees.

The Legislature created a caseload standards advisory committee at both PRS and the Department of Human Services to review professional caseload standards at each agency and to make recommendations to the Health and Human Services Commissioner regarding minimum and maximum caseload standards. The Commissioner may establish caseload standards, based on the recommendations of each committee and each agency must use the standards, subject to the availability of funds appropriated by the Legislature.

8. Improve quality of services through result-oriented performance standards for substitute care.

The Legislature adopted a provision requiring the Health and Human Services Commission, after consulting with representatives from PRS, the Juvenile Probation Commission, and the Department of Mental Health and Mental Retardation, to adopt result-oriented standards for substitute care service providers. Agencies that purchase substitute care services must include the standards as requirements in each contract.

9. Reduce costs by implementing competitive bidding for substitute care.

The Legislature adopted a provision requiring representatives from state agencies that purchase substitute care services for children to meet to assess the total need for substitute care services in the state and to recommend how the state could best implement a competitive bidding process. PRS is required to develop and implement a pilot program for competitive bidding for the purchase of substitute care services by September 1, 1998.

Fiscal Impact

Implementation of the provisions in the final Sunset bill will result in a net positive fiscal impact of \$6,300,558 to General Revenue funds and \$587,545 in federal funds for the biennium ending August 31, 1999. The bill will result in a loss to the General Revenue Fund and federal funds in the first year of the biennium as the agency staffs up to move children into permanent placements more quickly. These costs are offset in the following fiscal years primarily from savings in foster care payments since children should leave the system more quickly.

The net fiscal gain results primarily from the provisions that speed up the permanency planning for children in PRS' temporary managing conservatorship and the associated legal representation. The provisions relating to permanency planning would significantly increase the Department's workload in child protective services. The cost of staffing up to meet the additional workload would be more than offset by a savings in foster care and other purchased service payments, because the provisions of the bill would cause some children to leave the foster care system more quickly. The workload increase will be heaviest in the first two fiscal years as the Department implements new procedures to move foster children who have been in conservatorship for 12 or more months through the court system. Additional child protective services and legal staff will be needed to handle the new permanency planning requirements. These staff represent the majority of positions represented in the five-year impact chart.

The provisions relating to the PRS pilot competitive bidding program for substitute care services will result in an \$850,000 annual savings, including \$634,000 in General Revenue funds and \$216,000 in federal funds. These savings begin to accrue in fiscal year 1999.

Implementation of the provisions relating to coordinated child-care monitoring inspections will result in a net annual General Revenue savings of \$498,000. This includes a \$13,000 cost to maintain the PRS database that would be offset by a \$511,000 savings from streamlining the inspection process. The savings will be allocated among PRS (\$247,023), the Workforce Commission (\$254,895), and the Department of Human Services (\$9,082).

Implementation of the provision requiring background and criminal history checks for persons associated with regulated child care facilities and family homes will require PRS to request the Department of Public Safety check the background and criminal history of nearly 70,000 persons requiring additional positions to accommodate the new workload. PRS will charge a fee to recover administrative costs associated with the requirement.

Implementation of two other provisions in the bill will result in a gain to the General Revenue Fund, but the amounts cannot be estimated. The first provision authorizes PRS to charge a child-care facility or family home for the reasonable cost of providing services related to corrective action plans. The second provision authorizes PRS to impose an administrative penalty when a child care facility or family home violates the licensing law, or a rule or order adopted under the licensing statute.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact			
Fiscal Year	Gain/(Loss) to General Revenue Fund	Gain/(Loss) to Federal Funds	Change in Number of State Employees from FY 1997
1998	(\$1,768,060)	(\$1,705,881)	+106.5
1999	8,068,618	2,293,426	+220.0
2000	16,543,618	7,006,209	+105.0
2001	11,541,051	4,766,384	+70.5
2002	11,470,866	4,709,260	+70.5

Bill Summary

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 8	Defines family preservation to include the protection of parents and their children from needless family disruption because of unfounded accusations of child abuse or neglect.
Page 1, Line 23 thru Page 2, Line 1	Adds language to the Department's responsibilities specifying family support and preservation services must respect the fundamental right of parents to control the education and upbringing of their children.
Page 2, Line 6	Updates the Department's Sunset date to September 1, 2009, providing for the usual 12-year review cycle.
Page 2, Line 15 thru Page 6, Line 8	Updates and adds standard language developed by the Sunset Commission regarding complaints. Specifies procedure for receiving and responding to complaints including the requirement the appeal process include an opportunity for appeal of a complaint without the participation of the Department's ombudsman's office.
Page 6, Line 11	Adds standard language developed by the Sunset Commission requiring the Department to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Department's programs.
Page 6, Line 22	Updates standard language developed by the Sunset Commission requiring the Governor to designate the presiding officer of the Board.
Page 7, Line 6 thru Page 8, Line 4	Updates standard language developed by the Sunset Commission prohibiting appointment as a public member if the person or the person's spouse is registered, certified or licensed by the Department.
Page 8, Line 7 thru Page 9, Line 7	Adds standard language developed by the Sunset Commission prohibiting appointment as a Commission member or employment by the Department if the person or their spouse is an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Board or from being employed as general counsel.
Page 9, Line 10 thru Page 10, Line 10	Adds standard language developed by the Sunset Commission requiring a Board member to complete at least one course of training before assuming their duties and being confirmed by the Senate.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 10, Line 18	Updates standard language developed by the Sunset Commission requiring the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Department.
Page 11, Line 4	Requires the Board to propose and adopt rules that further the policy of family preservation.
Page 11, Line 8 thru Page 12, Line 10	Establishes a strategic technology steering committee to evaluate, set priorities, and coordinate major information technology projects and proposals.
Page 12, Line 17 thru Page 14, Line 14	Updates standard language developed by the Sunset Commission requiring the Executive Director to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Department. Requires the Executive Director to develop an equal employment policy that is annually updated, reviewed by the Commission on Human Rights, and filed with the Governor's Office.
Page 14, Line 20	Requires the Department to develop its strategic plan based on furthering the policy of family preservation.
Page 15, Line 5	Requires the Department to provide joint training in the investigation of reports of child abuse or neglect to its personnel and law enforcement personnel, where appropriate.
Page 15, Line 18 thru Page 16, Line 25	Requires the Department to assure the availability of community education and training related to child abuse and neglect. Requires the Department to establish multidisciplinary teams to provide services.
Page 17, Line 3	Requires the Department, to the extent possible, to separate investigations from service delivery, taking into consideration regional differences.
Page 17, Line 21 thru Page 19, Line 3	Requires the Department to develop and implement a standard statewide outreach program for counties to inform each county of the availability of federal funds to pay costs of providing child and adult protective services within the county and to provide technical assistance on request to a county seeking federal funds. Adds standard language developed by the Sunset Commission requiring the Department manage its funds according to the State Funds Reform Act and requiring the Department to file annual financial reports.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 19, Line 10 thru Page 20, Line 9	Requires the Department to develop a performance-based contracting system for program-related client services and requires the Department to develop a formal program to monitor contracts for compliance with performance requirements. Provides the Department is not prohibited from entering into interagency and interlocal agreements under Chapters 771 and 791 of the Government Code.
Page 20, Line 13 thru Page 21, Line 6	Specifies the terms under which this section does not provide immunity to a Department employee. Clarifies that, if a Department employee intentionally withholds information that would establish that a person alleged to have committed child abuse did not commit child abuse, then that person would not be eligible for immunity. Adds a member of a multidisciplinary team to subsection granting immunity from civil or criminal liability if the person acted in good faith.
Page 21, Line 13	Makes conforming changes to update references to the Family Code in the Department's enabling statute.
Page 22, Line 3 thru Page 26, Line 24	Requires the Department and the State Office of Administrative Hearings (SOAH) to adopt a memorandum of understanding under which SOAH conducts all contested case hearings authorized or required by law to be conducted by the Department. Exempts personnel grievance hearings involving a Department employee. Requires the Department to study issues related to providing child and adult protective services in areas bordering the United Mexican States. Allows the Department to maintain local bank or savings accounts for clients. Requires applicants for employment with the Department to execute and submit an affidavit and specifies the form of the affidavit.
Page 27, Line 3 thru Page 28, Line 2	Redefines "child care facility" and defines "family home," "children who are related to a caretaker," and "regular care."
Page 28, Line 5	Requires the Department to prescribe minimum training standards for an employee of a regulated child care facility.
Page 28, Line 20 thru Page 29, Line 21	Requires the Department to regulate assessment services provided by child care facilities or child-placing agencies. Prohibits a child care facility or child-placing agency from providing assessment services unless specifically authorized by the Department. Requires licensed day care facilities to provide certain training to employees and to facilitate parental visitations.
Page 29, Line 24 thru Page 30, Line 18	Adds standard language developed by the Sunset Commission establishing a method for license renewal and a time-frame and penalty structure for delinquent renewals.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 30, Line 21 thru Page 21, Line 12	Requires the Department, rather than the Division designated by the Department, to inspect all licensed or certified facilities. Authorizes the Department to inspect other facilities or registered family homes as necessary. Requires the Department to investigate a registered family home if it receives a complaint of abuse or neglect.
Page 31, Line 16 thru Page 33, Line 8	Specifies the terms by which the Department is required to coordinate child care facility inspections performed by an agency or subdivision of the state to eliminate redundant inspections. Requires the Department to share the results of child care monitoring inspections immediately upon completion of the inspection. Requires the Department to form an interagency task force with the Department of Health (TDH), the Department of Human Services (DHS), and the Workforce Commission (TWC) to develop a coordinated inspection protocol. Specifies the terms by which the Department is required to establish a computerized database containing the information from each inspection of a child care facility. Specifies the system must use available information systems, requires the Department to share the data with other state agencies or political subdivision where appropriate, and clarifies the Department can provide inspection data to the public if the Department determines the data would enhance consumer choice.
Page 33, Line 11	Requires the Department to search the central registry of reported cases of child abuse or neglect before issuing a license, registration, or certification.
Page 33, Line 25 thru Page 34, Line 6	Requires an applicant for a license to operate a child care facility or child-placing agency or for a registration to operate a family home to submit to the Department, rather than the Division, the appropriate fee and a completed application on a form provided by the Department.
Page 34, Line 9 thru Page 37, Line 6	Specifies the terms by which the Department must require the applicant or license holder of foster group homes or foster family homes, in counties with a population of more than 300,000, providing care for 24 hours a day at a location other than the actual residence of a child's primary caretaker, including facilities certified under alternative accreditation, to publish notice; conduct a public hearing on whether the proposed action should be taken; and determine the support for, resources available for, and impact of the proposed action. Establishes the conditions by which certain applicants for a license and certain license holders are required to publish notice of the proposed action in certain newspapers. Sets forth the conditions under which the Department is authorized to deny a license to an entity seeking to provide substitute care services or deny a request to expand such an entity's capacity under a license.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 37, Line 10	Updates references to registered family homes. Clarifies facilities must post notice they are not regularly inspected.
Page 38, Line 4 thru Page 42, Line 16	Requires the operator of a child care facility or family home to submit certain information to the Department for use in conducting background and criminal history checks. Requires the Department to conduct background and criminal history checks using certain information. Requires the Department, by rule, to require a family home to pay a fee to the Department in an amount not to exceed the administrative costs of conducting checks under this section. Adds standard language developed by the Sunset Commission preventing the Department from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading, or deceptive practices. Requires an applicant for employment with a licensed facility or registered family home to execute and submit an affidavit and specifies the form of the affidavit.
Page 42, Line 19 thru Page 43, Line 10	Adds standard language developed by the Sunset Commission requiring the Department to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or Department rules.
Page 43, Line 13 thru Page 44, Line 24	Includes registered family homes within the regulatory provisions regarding suspension, evaluation, or probation of a license or registration.
Page 45, Line 2	Allows the Department to charge a licensed child care facility the reasonable cost of formulating, monitoring, and implementing corrective action plans to address licensing standards violations.
Page 45, Line 9 thru Page 47, Line 13	Includes suspension and refusal to renew the license or certification of approval of a facility as penalties for a facility that does not comply with the rules of the Department or specific terms of the license or certification. Grants the division the authority to revoke the probation of a license holder whose license is suspended if a term of the conditions of probation is violated. Adds standard language developed by the Sunset Commission entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license. Reletters subsections and deletes language relating to a hearing and appeal process and moves this language to Section 42.078. Specifies a person whose license, registration or certification is revoked may not apply for any license, registration, or certification under this chapter until two years after the date on which the revocation occurred. Allows the Department to deny an application for a licensed facility or for registering a family home based on the results of a background or criminal history check.
Page 47, Line 17 thru Page 48, Line 12	Clarifies application of emergency closure and suspension provision to registered facilities. Deletes the provision requiring the Department to place the children attending or residing in the facility elsewhere if certain conditions exist.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 48, Line 19 thru Page 49, Line 5	Replaces the word “Division” with “Department” and includes registered family homes within the regulatory provisions regarding emergency suspension and closure.
Page 49, Line 11	Includes registered family homes within the regulatory provisions regarding civil penalties.
Page 49, Line 24 thru Page 50, Line 14	Provides that a person who operates a family home without a registration commits a Class B misdemeanor. Establishes that a person who places a public advertisement for an unlicensed facility or unregistered family home commits a Class C misdemeanor. Deletes the previous provision regarding a person who places an advertisement for a registered family home violating Section 42.052(f).
Page 50, Line 17 thru Page 51, Line 18	Includes registered family homes within the regulatory provisions regarding notice of action.
Page 51, Line 21 thru Page 57, Line 20	Provides the Department with administrative penalty authority of up to \$100 per violation of rules and regulations pertaining to licensed child care facilities and sets up a hearing and appeal process with standard timelines. Specifies the amount of the penalty is to be based on factors such as the seriousness of the violation and the history of previous violations. Provides a graduated scale for the maximum amount of administrative penalties the Department can assess based on the number of children receiving care. Clarifies the Department should use non-monetary administrative penalties against child care facilities before monetary penalties, when appropriate. Prohibits administrative penalties against child care facilities from being assessed for clerical errors or violations of subjectively worded standards.
Page 57, Line 9	Adds standard language developed by the Sunset Commission authorizing the Department to waive any license requirements and grant a license to an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state.
Page 57, Line 23 thru Page 58, Line 10	Adds standard language developed by the Sunset Commission preventing the Department from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 58, Line 15	Allows the Board to set and charge fees for issuing a provisional license in addition to fees associated with issuing a renewal license.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 58, Line 19 thru Page 60, Line 4	Adds standard language developed by the Sunset Commission allowing the Department to issue provisional licenses to license applicants who are currently licensed in another state and allows the Department to waive any of the requirements if they are a hardship to the applicant.
Page 60, Line 7 thru Page 61, Line 13	Updates standard language developed by the Sunset Commission requiring the board to recognize, prepare, or administer continuing education programs for license holders and specifying the method for license renewal and a time-frame and penalty structure for delinquent renewals.
Page 61, Line 16 thru Page 62, Line 19	Updates standard language developed by the Sunset Commission requiring the Department to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or Department rules.
Page 62, Line 22 thru Page 63, Line 9	Adds standard language developed by the Sunset Commission authorizing the Department to revoke the probation of a license holder whose license is suspended if they violate a term of the conditions of probation and entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 63, Line 15	Expands the scope of individuals who may be held liable for abuse of an elderly or disabled person.
Page 64, Line 12	Clarifies judicial authority to appoint the Department as either the guardian of the estate or guardian of the person or both as needed and requiring the Department to pursue the least restrictive alternative to guardianship.
Page 64, Line 21 thru Page 65, Line 9	Clarifies the criteria which must be met before the Department may be appointed as guardian of a person and specifies that the Department may not be liable to pay fees relating to the appointment of an attorney/guardian ad litem.
Page 65, Line 14	Clarifies and expands the responsibility to report suspected abuse or neglect of an elderly or disabled person to include medical and other professionals.
Page 65, Line 25 thru Page 66, Line 4	Specifies that knowingly or intentionally reporting information related to the abuse of elderly or disabled persons that is false or lacks factual foundation is a Class B misdemeanor.
Page 66, Line 7	Authorizes the Department to prioritize investigations according to the severity and the immediacy of the alleged harm to the individual. Specifies this section does not apply to community centers and facilities operated by MHMR.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 67, Line 19 thru Page 68, Line 25	Specifies the Department's confirmed investigation findings may not be changed by a superintendent of a state mental health or mental retardation facility or director of a community center. Specifies only the Commissioner of MHMR or a designee may change the findings for good cause. Requires the Department and MHMR to establish the procedures for resolving discrepancies in the two agencies' investigation findings by joint rule. Authorizes the Department, by rule, to assign priorities and prescribe investigative procedures conducted by the Department. Specifies the primary criterion used in assigning a priority must be the risk that a delay in the investigation will impede the collection of evidence. Requires the Department and MHMR to jointly develop and implement a single system to track reports and investigations.
Page 69, Line 5 thru Page 70, Line 21	Clarifies that the provision relating to the treatment of confidential information during an investigation applies to other state agencies with investigatory authority.
Page 70, Line 24 thru Page 71, Line 5	Clarifies who cannot interfere with investigations or the provision of services by the Department to include guardians.
Page 73, Line 7 thru Page 74, Line 3	Authorizes the court to terminate the parent-child relationship based on constructive abandonment of the child for six months or failure to comply with a court-ordered service plan.
Page 74, Line 6	Provides for a stay of a suit to terminate parental rights if criminal charges are filed related to the grounds for termination. The court may not proceed to final trial in a suit to terminate parental rights unless it is in the best interest of the child. Authorizes the court to render an order denying a parent access to a child if the parent is indicted for criminal activity that is a ground for involuntary termination of parental rights.
Page 75, Line 1	Authorizes the presiding judge to appoint a master for a court handling child protection cases if the court needs assistance to process the cases in a reasonable time.
Page 75, Line 7	Defines "Board" as the Board of Protective and Regulatory Services.
Page 75, Line 11 thru Page 77, Line 18	Adds statistical requirements that must be reported in the Department's annual report. Requires the Department to report child abuse related information to the public by February 1 of each year.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 77, Line 22 thru Page 78, Line 22	Deletes the requirement a person or a professional must make a report if they believe a child may be abused or neglected. Adds indecency with a child to the required offenses professionals must report. Adds employees of clinics and health care facilities that provide reproductive services to the definition of professionals. Requires the doctor to consider whether the sexual contact with a person under 17 meets the definition of child abuse in the Family Code prior to reporting.
Page 79, Line 2	Provides that reports of abuse or neglect received by law enforcement must be referred immediately to the Department.
Page 79, Line 6	Allows a district attorney to receive all or some reports of suspected abuse or neglect of children.
Page 79, Line 20 thru Page 80, Line 10	Provides that a person commits a Class A, rather than a Class B, misdemeanor, if the person knowingly or intentionally makes a report that the person knows is false or lacks factual foundation. Provides the offense is a state jail felony if the person has been previously convicted of a false report. Provides a false report can be grounds for modifying an order relating to possession or access to the child.
Page 80, Line 22	Adds "audiotapes" and "videotapes" to the list of items which are confidential.
Page 81, Line 2	Clarifies that the Department, with assistance from the appropriate law enforcement agency, must make a prompt and thorough investigation of a report of child abuse or neglect.
Page 81, Line 9	Requires the Board to establish a flexible response system that investigates serious cases of abuse and provides assessment and family services in less serious cases. Allows the Department to change the classification of a case under the flexible response system. Allows the Department to implement this program through a pilot program in a Departmental region. Requires the Department to study the results of the program in the region and determine the method by which it can be implemented statewide.
Page 81, Line 25 thru Page 85, Line 8	Requires the Department to enter into an agreement with a sheriff county with a population of 500,000 or more and 25,000 or less for law enforcement agencies to conduct investigations of abuse. Specifies the terms of the agreement related to the handling of investigations, training, and the processing of reports. Specifies method of finance and assistance required of the Department. Requires the Commissioners Court to establish a local citizens review board composed of volunteers who represent the community. Requires the State Auditor to perform an audit and evaluation of the pilot program.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 85, Line 11	Requires an interview with a child victim of physical or sexual abuse be audiotaped or videotaped unless good cause exists not to do so. Defines good cause.
Page 86, Line 1 thru Page 87, Line 2	Requires the Department or designated agency to interview or examine a child who has been allegedly abused. Requires the Department to notify each parent or guardian of the child of the nature of the allegation and the fact that the interview or exam was conducted. Clarifies the Department must still attempt to notify each parent of an investigation of child abuse or neglect whether or not the investigation included an interview or examination of a child. Specifies that the notice is not required if the Department determines that notice will endanger the child, the person who made the report, or any other person who participates in the report. Specifies that law enforcement officials may request to delay notification if it interferes with an ongoing criminal investigation.
Page 87, Line 5	Specifies the terms by which the Department is required to remove information from its records about a person who is alleged in a report to have abused or neglected a child and who the Department determines did not commit abuse or neglect. Requires the Board to adopt rules as necessary to administer this section.
Page 87, Line 22	Requires the Department or other agency to give written notice to each parent of the child when the Department or another agency takes possession of the child.
Page 88, Line 9	Requires the court to inform each parent in open court that parental and custodial rights are subject to restriction and termination if the court finds that there is continuing danger to the child and staying at home is contrary to the child's well-being. Specifies that parents may not be subject to restriction and termination of parental rights if the parents are willing and able to provide the child with a safe environment.
Page 88, Line 17	Requires the court to place a child with the non-custodial parent or a relative when removing the child from the custodial parent for alleged abuse.
Page 88, Line 24 thru Page 89, Line 23	Allows an accelerated trial schedule resulting in a final order for a child under care of the Department in certain serious cases.
Page 90, Line 1	Requires the court to inform each parent in open court that parental and custodial rights and duties may be subject to restriction or termination unless certain conditions are met.
Page 90, Line 12	Specifies the time period for status hearings and the matters to be reviewed.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 90, Line 19	Changes the heading of the Subchapter to “Permanency Hearings” instead of “Review Hearings”
Page 90, Line 22 thru Page 91, Line 14	Includes an attorney ad litem and a volunteer advocate appointed for the child under Chapter 107 among the persons entitled to at least 10 days notice of a permanency hearing, rather than a hearing to review a child’s placement, and entitled to present evidence and be heard at the hearing.
Page 91, Line 17	Sets forth the terms by which a child is required to attend each permanency hearing, unless the court excuses the child’s attendance. Deletes the provision authorizing the court to dispense with the attendance of the child at a placement hearing.
Page 91, Line 25 thru Page 92, Line 11	Sets forth the terms under which the Department is required to prepare, distribute copies of, and modify a permanency plan for a child for whom the Department has been appointed temporary managing conservator. Sets forth the contents of a permanency plan.
Page 92, Line 14 thru Page 94, Line 23	Creates new heading: PERMANENCY PROGRESS REPORT. Sets forth the terms by which the permanency progress report is required to recommend that the suit be dismissed or continue. Deletes the existing requirements regarding a status report.
Page 95, Line 1	Creates new heading: INITIAL PERMANENCY HEARING; TIME. Sets forth the conditions by which the court is required to hold a permanency hearing to review the status of, and permanency plan for, the child to ensure that a final order consistent with that permanency plan is rendered before the date for dismissal of the suit. Deletes the existing provisions regarding a permanency hearing.
Page 95, Line 4	Creates new heading: SUBSEQUENT PERMANENCY HEARINGS. Requires a subsequent permanency hearing before entry of a final order to be held not later than the 120th day after the date of the last hearing. Authorizes the court to order more frequent hearings. Deletes the provisions regarding subsequent review hearings.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 95, Line 24 thru Page 99, Line 19	Creates new heading: PERMANENCY HEARINGS; PROCEDURE. Sets forth the terms under which the court is required, at each permanency hearing, to review the efforts of the Department or another agency in accomplishing certain goals; return the child to the parent or parents if certain conditions are met; return the child to a person or entity, other than a parent, if certain conditions are met; evaluate the Department's efforts to identify relatives who could provide the child with a safe environment; evaluate the parties' compliance with temporary orders; determine whether other plans or services are needed to meet the child's needs; determine whether efforts have been made to place the child in the best institutional environment possible; order the services needed to assist the child in making the transition from substitute care to independent living under certain circumstances; determine plans, services, and further temporary orders necessary to ensure that a final order is rendered on time; and determine the date for dismissal of the suit and give notice to all parties.
Page 99, Line 22 thru Page 106, Line 11	<p>Sets forth the terms under which the court is required to dismiss the suit affecting the parent-child relationship filed by the Department that requests termination of the relationship or requests that the Department be named conservator of the child. Establishes the conditions under which the court is authorized to extend the court's jurisdiction of the suit for a certain period and sets forth the contents of an extension order. Requires the court to render a final order or dismiss the suit on the specified date, and prohibits the court from granting an additional extension.</p> <p>Sets forth the terms by which the court is authorized to retain jurisdiction and not dismiss the suit or render a final order. Requires the court, if the court renders an order, to include in the order specific findings regarding the grounds for the order.</p> <p>Sets forth the terms under which the court is authorized to render a final order appointing the Department as managing conservator of the child without terminating the rights of the parent of the child, and is required to take into consideration certain factors in making that determination.</p> <p>Sets forth the terms by which the court is required to conduct and provide notice of a placement review hearing if the Department has been named as the child's managing conservator in certain final orders. Authorizes the court to dispense with the requirement that the child attend a placement review hearing. Establishes the conditions by which the Department or other authorized agency is required to file a placement review report with the court and provide a copy to certain persons. Requires the court to make certain determinations at hearing.</p>

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 106, Line 15 thru Page 108, Line 2	Establishes the legal representation of the Department in certain actions under this code. Clarifies the ability of the Attorney General's Office to deputize the Department for legal representation in child protective cases.
Page 108, Line 6 thru Page 110, Line 9	Establishes the conditions by which the Department is required to assess the need for substitute care services throughout the state and contract with substitute care providers. Specifies the terms by which the Department is required to monitor the performance of a foster parent who does not provide substitute care services through an entity under contract with or licensed by the Department.
Page 110, Line 12	Requires the Department, before placing a child in substitute care, to use assessment services provided by a child care facility or child-placing agency.
Page 110, Line 19 thru Page 112, Line 23	Requires the Department to begin searching for potential adoptive parents at the time the Department decides to petition for termination of parental rights. Requires the Department to adopt policies that provide for the improvement of services for families and children in the areas of accountability to people that receive services and to ensure consistency of services provided by the Department throughout different regions of the state.
Page 113, Line 5	Requires a justice of the peace to order an autopsy performed if the deceased was a child younger than six years of age and the death is determined to be unexpected.
Page 114, Line 1 thru Page 119, Line 9	Requires the Department to obtain criminal history record information from the Department of Public Safety relating to certain persons. Authorizes the Department to obtain criminal history information relating to certain persons. Sets forth provisions regarding the failure or refusal to provide a complete set of fingerprints or a complete name on request. Authorizes the Department to charge a fee to cover the costs of obtaining the information.
Page 119, Line 13 thru Page 120, Line 21	Defines "caseload standards" and "professional caseload standards."
Page 120, Line 24 thru Page 121 Line 12	Requires the Health and Human Services Commission, after consulting with representatives from the Department, the Juvenile Probation Commission, and the Department of Mental Health and Mental Retardation, by rule, to adopt result-oriented standards that a provider of substitute care services for children under the care of the state must achieve. Requires a health and human services agency that purchases substitute care services to include the standards as requirements in each contract.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 121, Line 15 thru Page 122, Line 24	Allows the Health and Human Services (HHS) Commissioner to establish caseload standards at the Department and the Department of Human Services (DHS), based on the recommendations of each caseload standards advisory committee. Each agency must use the standards, subject to the availability of funds appropriated by the Legislature.
Page 123, Line 2 thru Page 124, Line 14	Creates a caseload standards advisory committee at both the Department and DHS to review professional caseload standards and make recommendations to the HHS Commissioner regarding minimum and maximum caseload standards.
Page 124, Line 20	Clarifies the Department can be appointed guardian, can designate a caseworker to serve as an agent for the guardian, and the agent will take the oath.
Page 125, Line 5	Provides that certain postmortem inquests of a child by the medical examiner or justice of the peace are not required when the death of the child is expected.
Page 125, Line 11 thru Page 126, Line 13	Requires representatives from each state agency that purchases substitute care services for children to meet to assess the total need for substitute care services in this state and implement a competitive bidding process. Requires the Department, not later than September 1, 1998, to develop and implement a pilot program for the competitive bidding process.
Page 126, Line 14	Repeals Sections 263.308 and 263.309, Family Code and Section 42.050, Human Resources Code.
Page 126, Line 19 thru Page 128, Line 18	Effective Dates. (a) Specifies the effective date of this Act as September 1, 1997, except as otherwise provided by this Act. (b) Requires the board to adopt rules necessary to administer the changes in law made by this Act not later than November 1, 1997. (c) Makes application of this Act prospective regarding the qualifications of, and prohibitions applying to, members of the board. (d) Requires the Executive Director of the Department to appoint the members of the strategic technology steering committee not later than November 1, 1997. (e) Makes application of this Act prospective regarding a disciplinary proceeding or contested case. (f) Makes application of this Act prospective regarding the imposition of a penalty or other disciplinary action. (g) Makes application of this Act prospective regarding the qualifications for a license. (h) Makes application of this Act prospective regarding the termination of the parent-child relationship.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES S.B. 359 by Brown (Gray) Enrolled Version	
Bill Reference	Bill Provision
Page 128, Line 19 thru Page 129, Line 7	Transition. (a) Makes application of this Act prospective to January 1, 1998 regarding a contested case hearing conducted by the State Office of Administrative Hearings. (b) Authorizes the Executive Director of the Department and the chief administrative law judge of the State Office of Administrative Hearings to agree to transfer contested cases pending before the Department to the State Office of Administrative Hearings before January 1, 1998.
Page 129, Line 8	Makes application of this Act prospective regarding Section 42.0461, Human Resources Code, as it relates to an application for a license or for authorization to expand capacity.
Page 129, Line 15 thru Page 130, Line 4	Transition. (a) Specifies the effective date for SECTIONS 51-62, regarding pending suits affection the parent-child relationship, as January 1, 1998. (b) Makes application of this Act retroactive regarding SECTIONS 51-62, except as provided by Subsection (c). (c) Requires the court, if the Department has been appointed temporary managing conservator of a child before January 1, 1998, to establish a date for dismissal of the suit within two years, unless the court has rendered a final order before the dismissal date.
Page 130, Line 5	Provides that changes to Section 261.101, Family Code, related to reports of abuse and neglect are prospective.
Page 130, Line 11	Provides that changes related to autopsies and inquests are prospective.
Page 130, Line 19	Requires the Health and Human Services Commission to adopt the rules required by Section 531.047, Government Code, not later than January 1, 1998.
Page 130, Line 22 thru Page 131, Line 2	Establishes the conditions under which an agency that purchases substitute care services is required to review the effectiveness of the result-oriented standards and report to certain persons and entities no later than January 31, 1999.
Page 131, Line 3	Requires the caseload standards committees to make recommendations by March 1, 1998. Requires the HHS Commissioner to adopt rules related to the standards by September 1, 1999.
Page 131, Line 11	Sets forth the terms by which each agency or subdivision of the state that inspects child care facilities is required to submit a copy of the inspection form to the Department not later than September 15, 1997.

DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES	
S.B. 359 by Brown (Gray)	
<i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 131, Line 17	Requires the Department, DHS, TDH, and TWC to report on recommended coordinated inspection protocols by February 1, 1998. The protocol must be implemented by June 1, 1998.
Page 131, Line 25 thru Page 132, Line 10	Establishes the conditions under which the Department is required to establish a working group to coordinate the processing of child protection cases. Requires the working group to report its recommendations to the Texas Supreme Court no later than September 1, 1998. Requires the Texas Supreme Court to adopt rules regarding the processing of child protection cases.
Page 132, Line 10	Sets forth the terms by which a state agency is required to request a waiver or authorization which may delay implementing a provision until the waiver or authorization is granted.
Page 132, Line 16	Emergency clause.

Texas Public Finance Authority

Texas Public Finance Authority

Final Action: Continue the Texas Public Finance Authority for 12 Years with Changes.

H.B. 1077 by Telford (Armbrister)

Report prepared by John Hubbard

Major Provisions in the Final Sunset Bill

House Bill 1077 continues the Texas Public Finance Authority (TPFA) for 12 years and expands the state's policy of consolidating the bond-issuance functions of state agencies into TPFA. Since TPFA was created in 1983, the Legislature has followed a policy of concentrating the bond-issuance authority of state agencies and higher education into TPFA. The 13 agencies currently required to issue bonds through TPFA include large bond-issuers such as the General Services Commission and smaller bond issuers such as the Texas National Guard Armory Board. By consolidating the bond-issuance functions of these entities into TPFA, the state minimizes its bond-issuance costs. The Legislature agreed with the Sunset Commission recommendation to include one additional state agency and three additional universities under the bond-issuing auspices of TPFA. All of these entities currently issue bonds infrequently and in small amounts, resulting in unnecessarily high costs incurred by the state in issuing their bonds.

Provisions in the bill also establish an orientation process for TPFA's client agencies to improve communication between TPFA and its client agencies in order to facilitate the bond-issuance process. By improving the communication between TPFA and its client agencies, bond issuances can be achieved with minimal costs and with greater efficiency. The following material provides more detail on the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature.

Sunset Provisions

1. Consolidate bonding authority of agencies with small and infrequent state bond issuances into TPFA.

The Legislature adopted the recommendation of the Sunset Commission which requires the following agency and universities to issue debt through the Texas Public Finance Authority:

- the Texas Low-Level Radioactive Waste Disposal Authority,
- Midwestern State University,
- Stephen F. Austin State University, and
- Texas Southern University.

By consolidating the bond-issuance functions of these entities into TPFA, the state will minimize its bond-issuance costs and thereby save state resources. These entities are still responsible for completion of any projects or programs financed through bond proceeds, including obtaining legislative authorization necessary. These agencies are also still responsible for making all decisions regarding the project or program itself. However, TPFA will be responsible for arranging the most cost-effective means of bond financing.

2. Improve TPFA's interaction with client agencies by requiring an early, plain language orientation to the agency's bond issuance process.

The Legislature adopted the recommendation of the Sunset Commission that requires TPFA to develop an orientation to the bond issuance process for client agencies of TPFA. The provision also requires TPFA client agencies to provide TPFA with detailed information, legislative authorization and a list of staff designated to work with TPFA on the project financed by a bond issuance. Establishing an orientation process for TPFA's client agencies will improve communication between TPFA and its client agencies thereby facilitating the bond-issuance process.

3. Continue the Texas Public Finance Authority.

The Legislature adopted the recommendation of the Sunset Commission to continue TPFA for 12 years. By renewing the agency, the Legislature ensured the existence of a highly cost-effective means of financing legislatively authorized projects and programs. The Legislature also ensured that timely and accurate payment of bond debt service will continue.

Legislative Change

The Legislature added no new major provisions to the bill.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a positive net fiscal impact to the General Revenue Fund for the biennium ending August 31, 1999. Similar annual fiscal implications are expected to continue as long as the provisions of the bill are in effect.

The fiscal impact is based on savings derived from TPFA issuing bonds for the Texas Low-Level Radioactive Waste Disposal Authority, Midwestern State University, Stephen F. Austin State University, and Texas Southern University. Based on the past number and types of bond issues made by these agencies, having TPFA issue bonds for these agencies will save about \$127,000 each biennium.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact	
Fiscal Year	Gain/(Loss) to the General Revenue Funds
1998	\$63,500
1999	\$63,500
2000	\$63,500
2001	\$63,500
2002	\$63,500

Bill Summary

TEXAS PUBLIC FINANCE AUTHORITY H.B. 1077 by Telford (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 1, Line 12	Adds standard Sunset language prohibiting appointment as a public member if the person or the person's spouse conducts business with TPFPA. Provides a definition of public member.
Page 1, Line 24 thru Page 2, Line 2	Adds standard Sunset language requiring that appointment to the Board be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin.
Page 2, Line 6	Adds standard Sunset language requiring the grounds for removing a member of the Board and requires notification of the Board's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members.
Page 3, Line 1 thru Page 4, Line 3	Adds standard Sunset language requiring the Board's members to be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate. Also allows a person appointed to the Board to be reimbursed for travel expenses related to training for Board members.
Page 4, Line 7	Adds standard Sunset language requiring the Governor to designate the presiding officer of the Board.
Page 4, Lines 11 and 14	Changes the title of the Board's presiding officer from "Chairman" to "Presiding Officer".
Page 4, Line 19	Adds standard Sunset language requiring the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of TPFPA.
Page 4, Line 26 thru Page 5, Line 23	Adds standard Sunset language prohibiting Board members or their spouses, and TPFPA employees compensated at or above Group 17 in the Appropriations Act or their spouses, from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Board or from being employed as TPFPA's general counsel. Also defines Texas trade association.
Page 5, Line 24	Adds standard Sunset language requiring the Executive Director or a designee to provide board members and employees of the qualifications for office or employment and each person's responsibilities under the law.

TEXAS PUBLIC FINANCE AUTHORITY H.B. 1077 by Telford (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 6, Line 4	Adds standard Sunset language requiring the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of TPFA.
Page 6, Line 9 thru Page 7, Line 8	Adds standard Sunset language requiring the Executive Director or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.
Page 7, Line 9	Adds standard Sunset language requiring the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within TPFA and requires intra-agency postings of job openings concurrently with any public posting.
Page 7, Line 16	Adds standard Sunset language requiring the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 7, Line 21	Requires TPFA to comply with state and federal program and facility accessibility laws.
Page 7, Line 24 thru Page, 8, Line 18	Adds standard Sunset language requiring TPFA to collect and maintain information about all complaints filed with TPFA. Requires TPFA to maintain files on written complaints that TPFA has the authority to resolve and to notify the parties regarding the status of the complaint quarterly until disposition.
Page 8, Line 25 thru Page 9, Line 23 and Page, 11 Line 27 thru Page 12, Line 27	Requires the following agency and universities to issue debt through the Texas Public Finance Authority: <ul style="list-style-type: none"> • the Texas Low-Level Radioactive Waste Disposal Authority, • Midwestern State University, • Stephen F. Austin State University, and • Texas Southern University.
Page 9, Line 27 thru Page 10, Line 17	Requires TPFA to develop an orientation to the bond issuance process for client agencies of TPFA. Requires TPFA client agencies to provide TPFA with detailed information, legislative authorization and a list of staff designated to work with TPFA on the project financed by a bond issuance.
Page 10, Line 18 thru Page 11, Line 3	Adds standard Sunset language requiring TPFA to prepare and distribute information to its client agencies concerning TPFA's functions and complaint procedures. Defines client agency.
Page 11, Line 7	Adds standard Sunset language requiring TPFA's funds to be managed in accordance with the State Funds Reform Act.

TEXAS PUBLIC FINANCE AUTHORITY H.B. 1077 by Telford (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 11, Line 10	Adds standard Sunset language requiring TPFA to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 11, Line 24	Changes TPFA's Sunset date to September 1, 2009.
Page 13, Line 1	Specifies that the changes made in this Act relating to the qualifications of, and prohibitions applying to, members of the TPFA Board only apply to a member appointed on or after September 1, 1997. Specifies that a person serving on the Board September 1, 1997 may be reappointed to the Board if that person has the qualifications for a member as amended by this Act.
Page, 13, Line 13	Establishes the effective date of the Act as September 1, 1997.
Page 13, Line 14	Emergency clause.

Texas Racing Commission

Texas Racing Commission

Final Action: Continue the Texas Racing Commission for Eight Years with Changes.

H.B. 1445 by Gray (Armbrister)

Report prepared by Charla Ann King

Major Provisions in the Final Sunset Bill

House Bill 1445 makes major reforms to the Texas Racing Act to improve the state's regulation of pari-mutuel racing. The Legislature adopted all of the Sunset Commission's recommendations to ensure that the Texas Racing Commission (TxRC) is fully-equipped to regulate fairly and efficiently for the protection of the betting public and the safety of race animals. The bill increases expertise on the Racing Commission and encourages more consistent policymaking by significantly restructuring the Commission. The bill improves the racing industry's accountability through increased oversight of top regulatory officials at each track and of race animal breed registries that handle statutorily-dedicated funds used for economic development purposes. The Legislature also adopted measures to significantly increase the Racing Commission's enforcement authority for more intensive scrutiny of racetrack facilities and a better response to circumstances threatening to race animals, racing participants, or the public. The bill also comprehensively revises the Racing Act's criminal offense provisions to enhance prosecution of individuals violating the Racing Act.

In adding to the Sunset Commission provisions, the Legislature focused on promoting economic growth in the racing industry. The Legislature's approval of cross-species simulcasting is expected to result in increased wagering at the racetracks as wagering patrons are exposed to another form of pari-mutuel racing. The Legislature also removed a prohibition against the use of automatic banking machines for the convenience of racetrack patrons, which may result in more expenditures on wagering as well as on shopping, dining, and other entertainment found at the racetracks. Also significant to industry growth, the Legislature provided an economic boost to Texas racetracks by revising the pari-mutuel tax rates in efforts to further support live racing and to retire the TxRC's long-standing debt to the General Revenue Fund for start-up costs incurred in 1988-1991. House Bill 1445 represents the Legislature's effort to provide both effective state regulation and to foster economic growth within the racing industry. The following material summarizes the major provisions in the bill as recommended by the Sunset Commission and adopted by the Legislature, and includes additional provisions added during the legislative process.

Sunset Provisions

- 1. Prescribe public membership on the Commission and improve the operating structure.**

The Legislature adopted the Sunset Commission's recommendation to increase public membership on the Racing Commission and to eliminate its bifurcated structure. The Racing Commission will

now be composed of four public members with business or agribusiness backgrounds, one member with horse racing experience, one member with greyhound racing experience and the two current *ex officio* members, the State Comptroller and the Chairman of the Public Safety Commission. This composition addresses the need for additional business expertise on the Commission to effectively oversee the complex business affairs of the racing industry. A divided Commission has prevented full

member participation and has resulted in inconsistent policymaking regarding issues like simulcasting and racing industry involvement.

2. Focus Racing Commission activities on regulation of the industry, not promotion.

The Racing Commission has been under pressure to promote the racing industry because of slow growth and language in the statute that refers to the encouragement and promotion of horse and greyhound racing by the Commission. To avoid having one agency perform both regulatory and promotional duties, the bill removes all references to promotion of the industry. The legislation directs the Texas Department of Commerce* to assume responsibility for the promotion of racing if the Legislature authorizes economic development funds for this purpose. Further, the bill requires the Commission to consider the effects of its actions on the state's agricultural, race animal breeding, and training industry.

*(In S.B. 972, the 75th Legislature abolished the Texas Department of Commerce and transferred its powers and duties to the Texas Department of Economic Development. Consequently, responsibility for the promotion of racing, if authorized, is within the jurisdiction of the newly established agency.)

3. Improve TxRC's racetrack inspection and enforcement activities.

This change requires reporting and correcting of inappropriate and unsafe conditions at a racetrack facility. The bill requires the Racing Commission's Executive Secretary to issue a notice of violation for noncompliance and requests corrective measures within a specified period of time. If a racetrack fails to take action, the Executive Secretary is required to initiate an enforcement action and may rescind race dates. The bill requires the Commission to improve its oversight of construction and improvement of racetrack facilities by approving building plans and specifications, reviewing progress reports, and conducting inspections. If a

racetrack fails to meet requirements, the racetrack licensee may be required to appear at a public hearing before the Commission to consider the issue. Also, if a racetrack fails to comply with requests for corrective action, the Commission is required to initiate enforcement action and may rescind race dates.

4. Increase Texas Racing Commission oversight of programs funded through provisions of the Texas Racing Act.

Under current law, the Racing Commission has provided limited oversight of breed registries and the recognized horsemen's organization. Since 1989, horse and greyhound breed registries have received more than \$23 million in revenues through the Commission from money wagered at the racetracks. The bill authorizes the Commission to more closely monitor and audit these organizations and requires the development of performance measures so that the Commission and the Legislature are able to evaluate whether these funds are being used effectively. The bill also requires the Racing Commission to set standards for recognizing any organization that holds itself out as a representative of participants in the racing industry.

5. Improve the integrity and safety of pari-mutuel racing by making the top regulatory officials at each track directly responsible to the state.

To help ensure the integrity and safety of racing, the bill requires all track stewards and judges at each racetrack to be employed by the state. Currently at each racetrack, two racetrack employees and one state employee serve as stewards and judges. This provision eliminates an apparent conflict of interest in having a racetrack employ its own stewards and judges. The change also eliminates an inappropriate delegation of the state's licensing authority to the regulated entity that occurs when racetrack-employed stewards and judges issue rulings against state-issued licenses.

6. Require the Texas Racing Commission to recover costs of criminal history reports.

The agency currently does not recover any of the costs of conducting the criminal history checks that are required when applying for an occupational license from the Racing Commission. The Department of Public Safety currently pays the cost of performing criminal history checks out of its budget. Requiring TxRC to recover these costs from license applicants represents a gain to state revenue from increased licensing fees.

7. Expand the Texas Racing Commission's enforcement powers to improve its ability to respond effectively to emergency situations at racetracks and to racetrack closures.

The Legislature adopted the Sunset Commission's recommendation to expand the agency's enforcement powers. The agency may now require racetracks to post a security bond, issue cease and desist orders, oversee the horsemen's accounts to ensure that funds are properly maintained, and summarily suspend a racetrack license if the Commission determines that the track is being operated in a manner that constitutes an immediate threat to the health, safety, or welfare of racing participants or the public.

8. Clarify language on criminal offenses in the Texas Racing Act to remove ambiguity identified by local prosecutors enforcing the law.

The bill consolidates all criminal offenses into one article of the Texas Racing Act, separating them from rule violations. The Legislature also added several new offenses and rewords existing ones to conform to Texas Penal Code language.

9. Continue the Texas Racing Commission for eight years to oversee pari-mutuel racing in Texas.

The racing industry has not developed to the extent that was originally expected and not enough information is available to evaluate the overall impact of pari-mutuel racing. A shorter review cycle of eight years was adopted to give the Legislature a more timely opportunity to make changes needed after the racing industry becomes more established. A review of all rules by 2002 will help the agency move completely into a regulatory mode of operation.

Legislative Changes

1. Allow the Chairman of the Public Safety Commission and the State Comptroller to designate a representative to serve on their behalf as *ex officio* members of the Commission.

Because of time constraints on state officials, the Legislature often authorizes *ex officio* members of state boards and commissions to designate an individual to attend meetings on their behalf. The Texas Racing Commission meets frequently and this provision will provide more flexibility for the Commission.

2. Authorize the use of automatic banking machines at racetracks for patrons accessing checking accounts for up to \$200 in cash.

Commonly used at racetracks nationwide, the bill authorizes automatic banking machines for use by patrons betting at Texas racetracks. The Legislature included a limitation on the amount and source of funds as a safeguard against problem gambling. The state will also recoup regulatory costs through a one dollar service fee tied to the banking transaction.

3. Authorize cross-species simulcasting so that greyhound simulcast signals may be received by horse racetracks and horse racing simulcast signals may be received by greyhound racetracks.

Previously prohibited by statute and the subject of significant debate during consideration of the bill, this change opens additional wagering opportunities for bettors at Texas racetracks. Wagering on horse race simulcast signals at greyhound tracks and wagering on greyhound race signals at horse tracks is projected to generate additional revenue for the racetracks and the state.

To address concerns within the racing industry about market competition between racetracks due to cross-species simulcasting, the Legislature adopted specific safeguards. The bill requires a racetrack with cross-species simulcasting to distribute money from the wagering pool to the racetrack sending the simulcast signal. The racetrack must also distribute revenue to the official breed registries and to the Racing Commission for an escrowed purse account that can be used to supplement purses at the racetrack.

The bill also authorizes a racetrack within 75 miles of a track conducting cross-species simulcasting to apply and receive additional funds from the Commission's escrowed purse account if the racetrack has a decrease in wagering due to the simulcasting conducted by the nearby track. For example, if Sam Houston Race Park, located in Houston, experiences a loss due to horse race simulcasting at Gulf Greyhound Park in nearby La Marque, Texas, Sam Houston Race Park can apply to the Racing Commission for compensation.

4. Require the state greyhound breed registry to grant awards for rehabilitation of greyhounds.

To address concerns about race animal safety and treatment, the bill requires the Racing Commission to adopt rules ensuring that two percent of greyhound breed registry funds are awarded for the rehabilitation of greyhounds or to locate homes for greyhounds.

5. Modify tax rates for the pari-mutuel racing industry to retire the Racing Commission's debt to the General Revenue Fund, provide more equality in the tax rates, and extend more economic incentive to live racing.

The bill increases the simulcast tax by one-quarter percent, until January 1, 1999 and dedicates revenue to reimburse the General Revenue Fund for amounts loaned to the Texas Racing Commission when the Commission was established. In addition, the bill establishes a one and one-quarter percent tax on cross-species simulcasting wagering pools and equalizes the greyhound and horse racing contribution to the state's General Revenue Fund. The Legislature also changed the state's share of live pari-mutuel pools by removing the tax on live racing pools less than \$100 million starting January 1, 1999.

6. Authorize a Senate interim committee study of the racing industry including the relationships between segments of the industry, availability of horse racing opportunities, and live and simulcast wagering.

During consideration of H.B. 1445, the Legislature discussed a number of complex issues affecting the growth and progress of the racing industry. Of primary concern was the relationship between the quarter horse and thoroughbred horse industries, particularly in terms of fair distribution of purse and breed-incentive funds and fair allotment of live racing opportunities between the two breeds. The Legislature adopted a provision authorizing the Senate to conduct an interim study on these and other related issues and report to the 76th Legislature, Regular Session, 1999.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a net positive fiscal impact to the General Revenue Fund for the biennium ending August 31, 1999. These gains will result from the increase in tax revenue from cross-species simulcasting, the temporary increase in the simulcast tax, and the increase in revenue from automatic banking machines at the racetracks. In subsequent fiscal years, net losses to General Revenue will result due to the reduction of the pari-mutuel tax on live racing, and the repeal of the .25 percent collected for the state from simulcast pools (currently transferred to the Texas Commission on Alcohol and Drug Abuse).

In addition, implementation of Sunset provisions will result in a net positive fiscal impact to the General Revenue-Dedicated account 0597 and the General Revenue-Dedicated account 0099 for the biennium ending August 31, 1999. The gain to General Revenue-Dedicated account 0597 will result from the collection of additional track officials fees, increased occupational license fees and race day fees from the opening of Valley Greyhound Park, and increased race day fees from cross-species simulcasting. The costs to General Revenue-Dedicated account 0597 will result from the addition of the track officials at the racetracks, the addition of an auditor and a programmer, the cost of criminal history checks, travel costs, and the costs of computer phone lines and hardware for cross-species simulcasting, and the re-opening of Valley Greyhound Park. The increase to General Revenue-Dedicated account 0099 will be as a result of fees to DPS for criminal history checks. Similar fiscal implications are anticipated as long as the provisions of the bill are in effect.

The following chart represents the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact				
Fiscal Year	Probable Net Gain/(Loss) to General Revenue Related Funds	Probable Net Gain/(Loss) to Texas Racing Commission Account/GR-Dedicated 0597	Probable Net Gain/(Loss) to Operators and Chauffeurs License Account/GR-Dedicated 0099	Change in Number of State Employees from FY 1997
1998	\$2,372,000	\$565,178	\$229,392	+13.0
1999	252,000	615,078	231,432	+12.0
2000	(1,624,000)	691,437	231,432	+12.0
2001	(1,631,000)	701,737	231,432	+12.0
2002	(1,637,000)	712,243	231,432	+12.0

Bill Summary

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 9 Page 16, Line 20 Page 31, Line 5 Page 79, Line 11	Focuses Racing Commission activities on regulation of the industry, not promotion.
Page 3, Line 27 thru Page 4, Line 4	Allows the Chairman of the Public Safety Commission and the Comptroller of Public Accounts to appoint designees to serve as <i>ex officio</i> members of the Texas Racing Commission.
Page 4, Line 8	Adds standard language developed by the Sunset Commission. Requires appointments to the Commission be made without regard to race, color, disability, sex, religion, age or national origin.
Page 5, Line 8	Requires four of the members on the Commission to be public members and have a general knowledge of business or agribusiness. Requires one additional member to have special knowledge or experience related to greyhound racing and another to have special knowledge or experience related to horse racing.
Page 5, Line 14 thru Page 6, Line 10	Modifies standard language developed by the Sunset Commission that requires one-third of the members on the Commission to be public members and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry.
Page 6, Line 21 thru Page 7, Line 20	Adds standard language developed by the Sunset Commission. Prohibits Commission members or their spouses and employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Commission or from being employed as the Commission's general counsel. Also defines Texas trade association.
Page 7, Line 21 thru Page 8, Line 19	Adds standard language developed by the Sunset Commission. Defines the grounds for removing a Commission member and requires notification of the Commission's presiding officer, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 8, Line 20 thru Page 9, Line 22	Adds standard language developed by the Sunset Commission. Requires the Commission members be provided with adequate information and training to perform their duties prior to assuming their duties and being confirmed by the Senate.
Page 9, Line 25 thru Page 10, Line 1	Updates standard language developed by the Sunset Commission that requires the Governor to designate the presiding officer of the Commission.
Page 10, Line 5 Page 15, Line 21 Page 35, Line 3 Page 35, Line 8	Eliminates the separation of the Commission into two sections. Allows the Commission to use sections for reviewing and proposing rules.
Page 10, Line 9	Adds standard language developed by the Sunset Commission. Requires the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission.
Page 10, Line 18 thru Page 11, Line 8	Specifies regulations regarding employment with the Commission.
Page 11, Line 12	Adds standard language developed by the Sunset Commission. Requires the Commission to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 11, Line 18	Adds standard language developed by the Sunset Commission. Requires the Commission funds to be managed in accordance with the State Funds Reform Act.
Page 11, Line 21	Adds standard language developed by the Sunset Commission. Requires the Executive Secretary or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 11, Line 27 thru Page 12, Line 4	Adds standard language developed by the Sunset Commission. Requires the Executive Secretary or a designee to develop a system of annual performance evaluations based on documented employee performance upon which merit salary increases must be based.
Page 12, Line 5 thru Page 13, Line 7	Adds standard language developed by the Sunset Commission. Requires the Executive Secretary or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 13, Line 8	Adds standard language developed by the Sunset Commission. Requires the Executive Secretary or a designee to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 13, Line 14	Adds standard language developed by the Sunset Commission. Requires the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Secretary and staff of the Commission.
Page 13, Line 19	Adds standard language developed by the Sunset Commission. Requires the Commission to comply with state and federal program and facility accessibility laws and the Executive Secretary shall develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs and services.
Page 13, Line 25 thru Page 14, Line 11	Adds standard language developed by the Sunset Commission. Requires the Commission to prepare and distribute information to the public concerning the Commission's functions and complaint procedures.
Page 14, Line 12 thru Page 15, Line 7	Adds standard language developed by the Sunset Commission. Requires the Commission to collect and maintain information about all complaints filed with the Commission. Requires the Commission to maintain files on written complaints that the Commission has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 15, Line 18 thru Page 16, Line 5	Requires the Commission to hold meetings on proposed rules before they are published in the Texas Register, and post notice of these meetings at each racetrack facility. Also requires notice of the proposed rule to be published concurrently with its subsequent publication in the Texas Register.
Page 16, Line 25 thru Page 17, Line 9	Adds standard language developed by the Sunset Commission. Prevents the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 17, Line 22 thru Page 18, Line 12	Improves the integrity and safety of pari-mutuel racing by making the top regulatory officials at each track directly responsible to the state.
Page 19, Line 7	Requires the stewards and judges, before imposing a penalty, to conduct a hearing that is consistent with constitutional due process.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 19, Line 15	Requires medication or drug testing under this Act be conducted by a laboratory selected by the Commission on a yearly basis by competitive bidding submitted to the Commission for final approval. Requires the Commission's decision to be based on cost and integrity. Authorizes the Texas Veterinary Medical Diagnostic Laboratory to aid the Commission in its selection.
Page 20, Line 12	Allows racetracks to use money held for unclaimed pari-mutuel vouchers for race animal drug testing — Texas Racing Commission receives any excess funds.
Page 21, Line 4	Requires the Commission to adopt criteria for recognizing organizations that represent members of the racing industry.
Page 21, Line 12	Modifies standard language developed by the Sunset Commission that requires the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 21, Line 19 thru Page 22, Line 1	Modifies standard language developed by the Sunset Commission that entitles licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 22, Line 2 thru Page 23, Line 24	Relocation of language requiring the Commission to adopt rules relating to unlawful influence, prohibited devices, or prohibited substances so that rule violation provisions are separate from criminal offense provisions in Article 14.
Page 23, Line 25 thru Page 24, Line 2	Authorizes the Commission to require an association to post security to ensure the payment of any fees or charges due to the state or the Commission related to pari-mutuel racing, including drug testing.
Page 24, Line 3 thru Page 25, Line 15	Sets forth regulations regarding cease and desist orders to be issued by the Executive Secretary of the Commission.
Page 25, Line 16 thru Page 27, Line 5	Sets forth regulations regarding emergency cease and desist orders to be issued by the Executive Secretary of the Commission.
Page 27, Line 6	Sets forth regulations regarding violations of a final and enforceable cease and desist order.
Page 27, Line 20	Authorizes the Commission to institute an action in its own name to enjoin the violation of this Act. Provides that an action for an injunction is in addition to any other action, proceeding, or remedy authorized by law.
Page 27, Line 24 thru Page 28, Line 19	Sets forth regulations regarding monitoring by the Commission of the horsemen's account.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 29, Line 1	Authorizes the DPS to request any person owning any interest in an applicant for a racetrack license to submit a complete set of fingerprints. Requires the Commission, if a complete set of fingerprints is required, to forward the prints to DPS or the Federal Bureau of Investigation.
Page 29, Line 24 thru Page 30, Line 3	Requires the Commission to recover costs of criminal history reports and to reimburse DPS for the cost of conducting these criminal history checks.
Page 34, Line 18	Adds the fact that the applicant has engaged in unacceptable activities as additional criteria upon which the Commission may deny, revoke or suspend a racetrack license.
Page 34, Line 22	Adds the fact that the applicant fails to fully disclose all the owners in a racetrack facility as additional criteria upon which the Commission may deny, revoke or suspend a racetrack license.
Page 34, Line 25	Provides that the grounds on which the Commission may deny, revoke, or suspend a racetrack license apply to any partnership or limited partnership of which one partner or limited partner is disqualified.
Page 35, Line 18	Provides that certain requirements do not apply to an applicant for or holder of a racetrack license if the license holder, or the license holder's parent company is a publicly traded company.
Page 35, Line 25 thru Page 38, Line 20	Improves the Commission's racetrack inspection and enforcement powers.
Page 38, Line 21 thru Page 40, Line 10	Authorizes the Commission to summarily suspend a racetrack license if an immediate threat to the health, safety or welfare of racetrack patrons exists.
Page 40, Line 17 thru Page 41, Line 19	Sets simulcast purse amounts starting January 1, 1999.
Page 41, Line 23 thru Page 42, Line 2	Requires the Commission to require the state greyhound breed registry to award amounts equal to two percent of breed registry funds for the rehabilitation of greyhounds.
Page 42, Line 8 thru Page 46, Line 14	Revises deductions from simulcast pari-mutuel pools. Adds temporary .25 percent tax to simulcast pari-mutuel pools to reimburse the General Revenue Fund for money loaned to the Racing Commission for start-up costs. Sets cross-species simulcast tax at 1.25 percent. Dedicates .25 percent of simulcast pools previously dedicated to the Texas Commission on Alcohol and Drug Abuse for problem gambling to the Racing Commission to repay General Revenue loan.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 46, Line 18 thru Page 47, Line 19 Page 54, Line 27 thru Page 55, Line 1 Page 55, Line 8	Increases Commission oversight of programs funded through provisions of the Texas Racing Act.
Page 47, Line 20 thru Page 50, Line 6	Revises deductions from live pari-mutuel pools starting January 1, 1999, by removing tax on first \$100 million wagered on live racing and by applying the same tax rate to horse and greyhound racing.
Page 50, Line 21 thru Page 51, Line 2	Adds standard language developed by the Sunset Commission. Requires the Commission to notify license applicants of licensing examination results within a reasonable time of the examination date. Requires the Commission, upon request from an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance.
Page 51, Line 3	Prohibits the Commission from approving a management contract to operate or manage a racetrack owned by a governmental entity unless the racetrack license holder is an owner of the entity that proposes to manage the racetrack.
Page 52, Line 21	Makes the improper use of a temporary pass grounds for denial, revocation, or suspension of an occupational license.
Page 53, Line 3	Adds the fact that the applicant has engaged in unacceptable activities as additional grounds for denial, revocation or suspension of an occupational license.
Page 53, Line 15	Authorizes the Commission to determine the best method for recouping the cost of criminal history checks including collecting the costs over an extended period.
Page 54, Line 1	Adds standard language developed by the Sunset Commission. Authorizes the Commission to adopt a staggered license renewal system.
Page 54, Line 12	Adds standard language developed by the Sunset Commission. <u>Endorsement</u> - Authorizes the Commission to waive any license requirements and grant a license to an applicant with a valid license from another state that has license requirements substantially equivalent to those of this state. <u>Reciprocity</u> - Authorizes the Commission to waive any license requirements and grant a license to an applicant with a valid license from another state with which Texas has a reciprocity agreement. Also authorizes the Commission to enter into reciprocity agreements.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 54, Line 27 thru Page 55, Line 5	Requires the state horse breed registries to make reasonable rules to establish the qualifications of accredited Texas-bred horses.
Page 55, Line 14	Requires the Commission to adopt standards relating to operation of greyhound farms or other facilities where greyhounds are raised.
Page 55, Line 20 thru Page 58, Line 2	Authorizes cross-species simulcasting in this state. Specifies that horse racetracks and greyhound racetracks are not required to accept the cross-species simulcast signal. Sets forth regulations regarding wagering on a simulcast greyhound or horse race.
Page 57, Line 2	Specifies requirements for simulcasting agreements between greyhound racetrack associations and the state greyhound breed registry.
Page 58, Line 8	Authorizes the use of automatic banking machines at the racetrack. Sets transaction fee for deposit in the General Revenue Fund.
Page 58, Line 23 thru Page 59, Line 3	Clarifies the Commission's rulemaking authority to prohibit minors from wagering at the racetrack.
Page 59, Line 22 thru Page 60, Line 5	Applies the affirmative defense to prosecution for gambling under the Penal Code to lawful wagering at racetracks.
Page 60, Line 8	Creates a presumption in the Racing Act that a person excluded or ejected from an enclosure or one who possessed and unauthorized credential is presumed to have been on notice that any entrance would fall under criminal trespass, Section 30.05, Penal Code.
Page 61, Line 3	Changes the title of Article 14 from "Touting and Other Offenses" to "Criminal Offenses".
Page 61, Line 5 thru Page 62, Line 4	Changes the penalty for touting to a Class A misdemeanor unless the actor is a licensee or the false statements were distributed in racing selection information to the public, in which case it is a state jail felony.
Page 62, Line 5	Includes unlawful possession of a credential in offense for unlawful use of a credential.
Page 66, Line 2	Makes knowingly allowing someone access to an enclosure who has engaged in bookmaking, touting, or illegal wagering or otherwise excluded from the enclosure an offense.
Page 67, Line 3	Makes offense a state jail felony, enhancement to a third degree felony if the statement were material in a Commission action.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 67, Line 17 thru Page 68, Line 1	Adds the hindering of a lawful search to the offense of hindering entry.
Page 68, Line 2	Adds forging a pari-mutuel ticket as a third degree felony.
Page 68, Line 9	Adds impersonating a license holder as a Class A misdemeanor.
Page 68, Line 15 thru Page 69, Line 3	Adds unlawful influence on racing through possession or use of a prohibited device or substance as an offense. Possession = state jail felony; Possession + Intent = Third degree felony; Use = state jail felony
Page 69, Line 4	Adds bribery and corrupt influence with the intent to affect the outcome of a race as a state jail felony unless the recipient of the bribe is a racing official, then enhanced to a third degree felony.
Page 69, Line 19 thru Page 70, Line 1	Adds conflict of interest as a criminal offense.
Page 70, Line 2	Adds allowing wagering by a minor or entry by an unaccompanied child to a racetrack as a Class B misdemeanor. Includes as affirmative defenses that the child was accompanied by a parent or guardian or that the minor displayed false identification.
Page 70, Line 24 thru Page 71, Line 6	Adds the offense of unlawful racing at a licensed facility as a state jail felony.
Page 71, Line 7	Adds the offense of unlawful pari-mutuel racing without a license as a Class A misdemeanor or state jail felony.
Page 71, Line 18	Adds the offense of racing without a license as a felony of the third degree.
Page 71, Line 26 thru Page 72, Line 19	Adds the offense of failing to display a credential upon a lawful request as a Class B misdemeanor. Includes the fact that the defendant was a licensee holder as a mitigating factor at sentencing, lowering it to a Class C misdemeanor.
Page 72, Line 20 thru Page 73, Line 13	Adds provision on search and seizure, giving authority to a member or authorized agent of the Commission, a commissioned DPS officer, a peace officer, or a steward or judge.
Page 73, Line 14	Specifies that a person subject to prosecution for an offense under this Act or another offense may be prosecuted under either law.
Page 73, Line 17	Specifies that Article 14 is not a restriction upon the Commission's administrative enforcement authority.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) Enrolled Version	
Bill Reference	Bill Provision
Page 73, Line 21	Provides that the venue for the prosecution of a criminal offense is in Travis County or in a county where an element of the offense occurred.
Page 73, Line 26 thru Page 74, Line 3	Changes the default penalty from a felony of the third degree to a state jail felony.
Page 74, Line 7 thru Page 75, Line 1	Authorizes local election regarding the approval of simulcast races.
Page 75, Line 11	Continues the Commission for eight years to oversee pari-mutuel racing in Texas and changes the Sunset date to 2005.
Page 75, Line 25 thru Page 76, Line 1	Authorizes the Commission to provide assistance to members of the racing industry who are attempting to develop or implement adult, youth, or continuing education programs that use distance learning.
Page 77, Line 19	Allows sale of lottery tickets at racetracks.
Page 79, Line 11	Requires the Department of Commerce* to promote the racing industry if money is appropriated for that use. *(In S.B. 972, the 75th Legislature abolished the Texas Department of Commerce and transferred its powers and duties to the Texas Department of Economic Development. Consequently, responsibility for the promotion of racing, if authorized, is within the jurisdiction of the newly established agency.)
Page 79, Line 20	Clarifies that totalisator services are subject to state sales tax.
Page 80, Line 1	Repeals Section 2.07, 3.01, 6.08 (c), 6.09(b), 11.04(d), 15.02, and 18.02, Texas Racing Act. Removes language regarding prohibited conflict of interest of Commission members and relocates this provision in Article 14. Removes language that divides the Commission into two separate sections. Removes language making a violation of Commission rules on wagering a criminal offense. Removes language that made all Commission rules and orders subject to the Administrative Procedure and Texas Register Act because this Act applies to all state agencies.
Page 80, Line 4	Specifies the effective date of the Act as September 1, 1997.
Page 80, Line 5	Provides that the changes made by this Act only apply to members of the Commission appointed after the effective date of this bill.
Page 80, Line 16	Requires the Commission to review all of the rules of the Commission and readopt, modify, or repeal these rules before January 1, 2002.

TEXAS RACING COMMISSION H.B. 1445 by Gray (Armbrister) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 80, Line 23	Transfers any rulemaking authority given to a separate section of the Texas Racing Commission to the full Texas Racing Commission.
Page 81, Line 1	Defines process regarding transition for the racing stewards and judges from employment by an association to employment by the state.
Page 81, Line 13	Provides that all amounts that have been transferred into Fund 517 since fiscal year 1992 are applied to reimburse any amount of General Revenue appropriated for the administration and enforcement of the Texas Racing Act that is in excess of the cumulative amount deposited in the Texas Racing Commission fund.
Page 81, Line 19 thru Page 82, Line 2	Authorizes Senate interim committee study of the growth and progress of horse racing in this state and issues related to the quarter horse and thoroughbred horse industries.
Page 82, Line 3	Requires the Commission from September 1, 1997 through December 31, 1997 to allow cross-species simulcasting to be conducted under the terms of an agreement, if an agreement exists, or if no agreement exists, as provided by Section 6.091, Article 179e, V.T.C.S., as amended by this Act.
Page 82, Line 9	Provides that the changes made by this Act do not apply to offenses, any element of which were committed before the effective date which instead will be prosecuted under the earlier law.
Page 82, Line 17	Emergency clause.

Council on Sex Offender Treatment

Council on Sex Offender Treatment

Final Action: Abolish the Council on Sex Offender Treatment as an Independent Agency and Transfer its Functions to the Texas Department of Health and the Criminal Justice Policy Council.

H.B. 2699 by Gray (Brown)

Report prepared by Joe Walraven

Major Provisions in the Final Sunset Bill

House Bill 2699 implements the recommendations of the Sunset Commission abolishing the Council on Sex Offender Treatment as an independent agency and consolidating its functions within the Texas Department of Health (TDH) and the Criminal Justice Policy Council. The Legislature agreed with the Sunset Commission that the state has a continuing interest in regulating persons who provide sex offender treatment, but that a separate agency is not needed to administer these regulations. Specifically, the bill continues the Council as a policy body, but transfers its regulatory functions to TDH, and gives the Policy Council the responsibility to evaluate the need for a state-administered sex offender treatment program. The Legislature also adopted Sunset recommendations to improve the Council's cost-effectiveness and its ability to perform its duties. The following material provides more detail on the major provisions in the bill, as recommended by the Sunset Commission and adopted by the Legislature.

Sunset Provisions

- 1. Abolish the Council on Sex Offender Treatment as an independent agency, but continue the Council as a policy body and consolidate its regulatory functions within the Texas Department of Health.**

The Legislature adopted the recommendation of the Sunset Commission to continue the Council as a policy body responsible for matters relating to the regulation of sex offender treatment providers and transfer the administration of these regulatory functions to the Texas Department of Health (TDH). The existing staff and resources of the Council are transferred to TDH, and the separate Sunset date for the Council is removed from statute. The Council retains its existing responsibilities to develop treatment strategies for sex offenders, collect and disseminate information about sex

offender treatment programs, maintain a registry of sex offender treatment providers, design and conduct continuing education programs for treatment providers, and establish registration requirements for providers. The Commissioner of Health is responsible for employing an Executive Director, with the advice and consent of the Council, to oversee the administrative functions of the Council.

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

The Legislature adopted the Sunset recommendation to make the Criminal Justice Policy Council, instead of the Council on Sex Offender Treatment, responsible for evaluating the need for a state program for sex offender treatment. Under this

transfer, the Policy Council must evaluate the rehabilitative capabilities of a state-administered treatment program and determine from this evaluation if the program is necessary. Because the Policy Council already evaluates the effectiveness of other programs in the prison system, including sex offender treatment programs, it will be able to assume this responsibility without adding a new reporting requirement.

3. Increase the size of the Council's policymaking body from three to six part-time members.

By increasing the size of the Council, as recommended by the Sunset Commission, the bill will provide a broader perspective to the Council in performing its duties. A larger policy body will also improve the Council's ability to operate without two of its members inadvertently constituting a quorum for a public meeting in violation of the state's Open Meeting Act.

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

Currently, all three Council members must meet the qualifications for registration as a treatment provider. As recommended by the Sunset Commission, the bill requires that one-third of the Council's members represent the general public. This requirement will help ensure that the agency responds to broader public interests and not just those of the regulated community.

5. Authorize the Council to appoint additional members to the Interagency Advisory Committee as it deems necessary.

The bill contains a recommendation of the Sunset Commission to allow the Council to appoint additional members to the Interagency Advisory Committee which advises the Council on matters related to sex offender treatment. This change does not affect the make-up of the Committee as currently specified in statute, but simply allows the Council to appoint additional members, as long as they represent a nonprofit entity that has a demonstrated interest in improving the treatment of sex offenders.

6. Require the Council to recover its costs through fees and grants.

The Legislature agreed with the Sunset Commission recommendation requiring the Council to set fees to recover the cost of regulating treatment providers. Requiring the Council to cover its cost through fees will eliminate its reliance on General Revenue funding and ensure that treatment providers bear the cost of their regulation—not the public at-large.

Legislative Change

The Legislature added no new major provisions to the bill.

Fiscal Impact

Implementation of the provisions contained in the final Sunset bill will result in a positive net fiscal impact to the General Revenue Fund of \$140,000 for the biennium ending August 31, 1999. Similar annual fiscal implications are expected to continue as long as the provisions of the bill are in effect.

The gain to the General Revenue Fund results from savings generated through the transferring the regulatory functions of the Council to TDH and from the requirement for the Council to recover the total cost of its regulatory activities through fee collections. These provisions will require the Council to reduce its costs or increase its fees to make up for the \$70,000 it currently receives from the General Revenue Fund. The Council will also recover the additional cost resulting from adding three members to the Council.

The following chart reflects the net fiscal implications of the bill for the first five years following the effective date of the bill.

Five-Year Impact	
Fiscal Year	Gain/(Loss) to the General Revenue Fund
1998	\$70,000
1999	\$70,000
2000	\$70,000
2001	\$70,000
2002	\$70,000

Bill Summary

COUNCIL ON SEX OFFENDER TREATMENT H.B. 2699 by Gray (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 2, Line 21 Page 9, Line 17	Continues the Council on Sex Offender Treatment, but consolidates its regulatory functions within the Texas Department of Health.
Page 3, Line 4 Page 7, Line 6 Page 8, Line 20	Increases the size of the Council from three to six members.
Page 3, Line 5	Changes the composition of the Council to require that one-third of its members represent the general public.
Page 3, Line 8	Adds standard language developed by the Sunset Commission prohibiting appointment as a public member if the person or the person's spouse is a registered sex offender treatment provider, or otherwise has financial ties to the regulated profession.
Page 3, Line 27 thru Page 4, Line 3	Adds standard language developed by the Sunset Commission requiring appointments to the Council to be made without regard to race, color, disability, sex, religion, age or national origin.
Page 4, Line 4 thru Page 5, Line 8	Modifies standard language developed by the Sunset Commission requiring Council members to complete training before assuming their duties and allowing reimbursement of travel expenses incurred in attending the training. Requires the training program to be completed within six months from the date of appointment and makes the failure to receive training a grounds for removal from the Council.
Page 6, Line 5 thru Page 7, Line 1	Adds standard language developed by the Sunset Commission prohibiting Council members or their spouses and employees compensated at or above Group 17 in the Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Council or from being employed as the Council's general counsel. Also defines Texas trade association.
Page 7, Line 9 thru Page 8, Line 8	Adds standard language developed by the Sunset Commission defining the grounds for removing a Council member and requiring notification of the Council's presiding officer, the Governor, and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Council is valid even if it is taken when a ground for removal exists for one of the members.

COUNCIL ON SEX OFFENDER TREATMENT H.B. 2699 by Gray (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 8, Line 12	Adds standard language developed by the Sunset Commission requiring the Governor to designate the presiding officer of the Council.
Page 9, Line 24 Page 5, Line 9 Page 8, Line 21 Page 9, Line 1 thru Page 10, Line 12	Authorizes the Council to appoint additional members to the Interagency Advisory Committee as it deems necessary.
Page 10, Line 20	Adds standard language developed by the Sunset Commission requiring the Council to clearly separate its policymaking responsibilities from the management responsibilities of the staff of the Council.
Page 10, Line 24 thru Page 11, Line 2	Adds standard language developed by the Sunset Commission requiring the Executive Director to inform council members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 11, Line 7 Page 18, Line 27 thru Page 19, Line 2	Transfers the responsibility for evaluating the need for a state-administered sex offender treatment program from the Council to the Criminal Justice Policy Council.
Page 12, Line 16 Page 13, Line 6	Adds standard language developed by the Sunset Commission requiring the Council to prepare and distribute information to the public concerning the Council's functions and its complaint procedures.
Page 12, Line 21	Adds standard language developed by the Sunset Commission requiring the Council to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Council's programs.
Page 12, Line 26 thru Page 13, Line 2	Adds standard language developed by the Sunset Commission requiring the Commission to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission.
Page 13, Line 18 thru Page 14, Line 12	Adds standard language developed by the Sunset Commission requiring the Council to collect and maintain information about all complaints filed with the Council. Requires the Council to maintain files on written complaints that the Council has the authority to resolve and to quarterly notify the parties regarding the status of the complaint until disposition.
Page 14, Line 17	Adds standard language developed by the Sunset Commission authorizing the Council to waive any registration requirements and grant registration to a sex offender treatment provider with a valid registration from another state.

COUNCIL ON SEX OFFENDER TREATMENT H.B. 2699 by Gray (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 14, Line 25 thru Page 15, Line 5	Requires the Council to recover its costs through fees and grants to reduce the agency's reliance on General Revenue funding.
Page 15, Line 10 Page 15, Line 25 thru Page 16, Line 17	Adds standard language developed by the Sunset Commission requiring the Council to establish a method for license renewal and a time-frame and penalty structure for delinquent renewals.
Page 15, Line 21	Adds standard language developed by the Sunset Commission authorizing the Council to adopt a staggered license renewal system.
Page 16, Line 22 thru Page 17, Line 7	Adds standard language developed by the Sunset Commission requiring the Council to use a full range of penalties, such as suspension or revocation, for violations of state laws or agency rules.
Page 17, Line 8	Adds standard language developed by the Sunset Commission entitling registrants to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 17, Line 26 thru Page 18, Line 1	Adds standard language developed by the Sunset Commission requiring the Council's funds to be managed in accordance with the State Funds Reform Act.
Page 18, Line 2	Adds standard language developed by the Sunset Commission requiring the Department to prepare an annual financial report that meets the reporting requirements in the Appropriations Act.
Page 19, Line 13	Transfers all unobligated funds, property, and records of the Council to the Texas Department of Health and specifies that employees of the Council become employees of the Texas Department of Health.
Page 19, Line 20 thru Page 20, Line 7	Requires the Governor to appoint three new members to the Council as soon as possible on or after the effective date of this Act and establishes the staggered terms for the six-member Council.
Page 20, Line 8	Specifies that the changes in the Act relating to qualifications for membership on the Council do not prevent current members of the Council from completing their term on the Council or from being reappointed to the Council.
Page 20, Line 24 thru Page 21, Line 5	Specifies that the Commissioner of Public Health shall hire an Executive Director as soon as possible on or after the effective date of this Act.
Page 21, Line 6	Establishes the effective date of the Act as September 1, 1997.
Page 21, Line 7	Emergency clause.

**Texas Department of Transportation
Texas Turnpike Authority**

Texas Department of Transportation Texas Turnpike Authority

Final Action: Continue the Texas Department of Transportation for 12 Years and Transfer the Functions of the Texas Turnpike Authority to the Department and the Newly Created North Texas Tollway Authority.

S.B. 370 by Armbrister, Sibley (Bosse, Gray)

Report prepared by Jay Schmidt and Joe Walraven

Major Provisions in the Final Sunset Bill

Senate Bill 370 continues the Texas Department of Transportation (TxDOT) for 12 years and contains several statutory changes to enhance the state's ability to meet future transportation needs and to make other improvements in the way the Department conducts its business. The final bill also contains the Sunset Commission's recommendations to transfer the functions of the Texas Turnpike Authority (TTA) to a separate division within TxDOT and to establish the North Texas Tollway Authority (NTTA) to assume responsibility for TTA's toll projects in the Dallas-Fort Worth area.

The Legislature agreed with the recommendations of the Sunset Commission to provide TxDOT additional tools to meet transportation needs through existing resources and without increasing taxes or fees. Key among these provisions is the establishment of a State Infrastructure Bank (SIB) for the Department to use in making loans or other credit enhancements for local government transportation projects. The Legislature went further, however, to provide additional financing for SIB projects by authorizing the Transportation Commission to issue revenue bonds. In consolidating certain TTA toll functions within TxDOT, the Legislature has provided the Department with an additional revenue source for building and operating roadway projects, especially in congested urban areas of the state. These provisions, and other provisions in the bill for projects and facilities to relieve congestion, will help the Department meet an increasing share of the state's transportation needs than is currently possible.

The Legislature also adopted several provisions that affect other aspects of the Department's operations. The Legislature followed the lead of the Sunset Commission to improve the way TxDOT conducts its business by monitoring the performance of highway contractors, establishing electronic systems for bidding highway contracts and issuing licenses and permits, and privatizing more of the Department's engineering services. Other legislative changes will strengthen support of local transportation needs by beefing up the state's assistance to counties for the repair and maintenance of county roads and by changing the way the Department disburses federal funds and evaluates the local government match. The Legislature also enacted provisions to address multi- and inter-modal transportation issues. The following material provides more information regarding the recommendations of the Sunset Commission and changes made by the Legislature regarding TxDOT and TTA.

Sunset Provisions - TxDOT

1. Authorize the Department's use of State Infrastructure Banks to take full advantage of federal highway funding flexibility.

The Legislature adopted, with one modification, the Sunset Commission recommendation authorizing TxDOT to create and use a State Infrastructure Bank (SIB). The SIB will allow the Department to meet a greater portion of state transportation needs by expanding the availability of transportation funding, reducing state costs, and maximizing private and local participation. The SIB will provide an alternative way for the state, local governments, and private entities to finance both highway and non-highway transportation projects. Financial assistance such as low interest loans, interest rate subsidies, and credit enhancements will be made available through the SIB. The bank will operate as a revolving fund where assistance provided by the bank will be repaid and used once again for other infrastructure projects. The Legislature's modification of the Sunset Commission recommendation was to authorize the Transportation Commission to issue revenue bonds in conjunction with the SIB.

2. Improve highway project administration and contractor timeliness.

The Legislature adopted the Sunset Commission recommendation to improve highway project administration and contractor timeliness by requiring the Department to review contractor bidding capacity as a way to ensure compliance with quality and timeliness standards. The Legislature modified the Sunset recommendation by adding compliance with safety standards and required TxDOT to review state law and Department rules to determine if changes are needed to realize cost and time savings on state highway and maintenance projects.

3. Remove obstacles to automating the Department's contract bidding system.

The Legislature adopted the Sunset Commission recommendation that removes existing statutory impediments to electronic commerce and authorizes TxDOT to replace the current manually intensive highway contract bidding system with an automated system. In addition, the recommendation allows the Department to recover costs of manually processing contract bids once an automated system has been implemented.

4. Require greater privatization of Department engineering services.

The Legislature endorsed the concept of balancing in-house and contracted engineering services proposed by the Sunset Commission but provided significant modifications. While the Sunset recommendation focused on determining an appropriate balance, the Legislature removed all uncertainty and specifically defined this appropriate balance. The Sunset bill requires the Department to use private sector engineering-related services and defines the minimum expenditure level and the method for calculating the level of those services. Specifically, expenditures for private-sector engineering services are to be expressed as a percentage of total funds appropriated for highway planning, design, and management. Additionally, beginning in fiscal year 2000, TxDOT is required to increase its expenditures on private sector services by at least one percent until reaching a minimum of 35 percent of funds appropriated for highway planning, design, and management.

5. Include transportation needs of health and human service clients in TxDOT's public transportation planning efforts.

The Legislature modified the original Sunset Commission recommendation that required TxDOT to coordinate public transportation planning and funding efforts with programs that provide transportation services to clients of health and

human services agencies. The modifications require TxDOT to provide a listing of each local transportation provider to health and human services agencies to improve coordination with local transportation providers. The impact of the final bill will be greater coordination between existing local transportation providers and serving more individuals and their transportation needs.

6. Outsource TxDOT vehicle maintenance if cost effective.

The Legislature adopted the Sunset Commission recommendation requiring TxDOT to conduct a two-year pilot project to outsource Department vehicle maintenance and repair in at least three districts to determine the cost effectiveness of using private service providers. Savings that may result from the pilot project must be deposited to the State Infrastructure Bank for use in financing transportation improvements throughout the state. The Department is required to report to the Legislature on the results of the pilot program and provide recommendations concerning the continuation or expansion of the program.

7. Continue the Texas Department of Transportation.

The Legislature adopted the Sunset Commission recommendation to continue the Texas Department of Transportation for the standard 12-year period.

Sunset Provisions - TTA

1. Consolidate the function of the Texas Turnpike Authority within the Texas Department of Transportation and create the North Texas Tollway Authority as a Regional Tollway Authority.

The Legislature adopted the Sunset Commission recommendation to consolidate the functions of TTA within a separate division of TxDOT and to create a separate tollway authority specifically for the North Texas region to operate existing TTA toll

facilities. However, while the Sunset Commission's recommendation did not specify how the consolidation of TTA or the creation of the new tollway authority should be implemented, the Legislature filled in all of the details. Generally, the consolidation of TTA provides for a new Turnpike Division within TxDOT to assume toll responsibilities that are much the same as TTA's current responsibilities for financing, building, and operating toll facilities. Similarly, the provisions that create the North Texas Tollway Authority (NTTA) largely parallel the same operating structure.

The new Turnpike Division will be governed by a seven-member Board with six Governor appointees and the chair of the Transportation Commission, or a member of the Commission designated by the Chair, serving as an ex officio member. The administrative head of the Division will be employed by the Transportation Commission. The Division is granted full authority to study, finance, design, construct, operate, and extend a turnpike project as part of the state highway system. Like TTA, the costs of the Division are to be paid by toll-supported revenue bonds. Any money received from the State Highway Fund is to be repaid by the Division. To assist with start-up costs, the bill transfers certain TTA feasibility study funds to TxDOT.

In addition to establishing the Turnpike Division within TxDOT, the Legislature also provided new toll powers to the Transportation Commission. For example, the Legislature authorized the Commission to collect a temporary toll for maintaining an existing non-toll segment of the state highway system. The Legislature also authorized the Commission to participate in the cost of building and operating toll facilities with public or private entities.

The Legislature also provided the detail for creating the North Texas Tollway Authority by establishing a new statute for the creation and operation of Regional Tollway Authorities (RTAs). As mentioned, the Legislature granted RTAs many of the same powers found in TTA's statute, however, an Authority is limited to a county with more than 1.5 million in population and any contiguous

counties. A county with a population of more than 300,000 and any contiguous counties may also form an RTA, but must receive Commission approval. RTAs will be governed by a Board of Directors, with the County Commissioners Court of each member county appointing one member and the Governor appointing three members.

The Legislature specifically created NTTA, comprised of Dallas, Tarrant, Collin, and Denton counties. NTTA will receive all of TTA's assets located in the four-county area, including the Dallas North Tollway, the Mountain Creek Lake Bridge, the President George Bush Turnpike, and TTA's headquarter facilities. NTTA must give the Department's Turnpike Division financial consideration for these assets with the actual amount being the funds in excess of TTA's bonding requirements, as determined by an audit of TTA. The payment shall be made in three installments, to be deposited to a special account within the General Revenue Fund.

Legislative Changes

1. Authorize the Commission to engage in congestion mitigation projects, including high-occupancy vehicle lanes.

The Legislature provided the Department authority to allocate state highway funds to congestion mitigation projects including high-occupancy vehicle (HOV) lanes and other methods that relieve traffic congestion. The provision provides the Department authority to impose a toll for using an HOV lane during peak traffic hours. Revenue generated by the imposition of tolls is required to be deposited to the State Highway Fund. In addition, the provision extends the same authority for congestion mitigation projects to other entities, such as transportation corporations or metropolitan transit authorities. The authority to engage in congestion mitigation projects for these other entities, however, is limited to the largest counties in the state—those over 500,000 in population.

2. Authorize the Department to enter into interlocal contracts with local governments for the financing of transportation infrastructure.

The Legislature provided the Department authority to enter into contracts with local governments to help finance and construct transportation infrastructure projects. Local governments would be allowed to pledge increased ad valorem tax collections attributable to increased property values resulting from infrastructure improvements to help finance the project. The pledge of increased tax revenues provides an additional and alternative source of financing a locality may use to meet local transportation needs.

3. Authorize the Department to electronically issue licenses or permits.

The Legislature provided the Department authority to receive applications for licenses and permits and to issue those licenses and permits electronically. This provision will allow the Department to establish programs that provide a high level of customer service and convenience while having the potential to reduce administrative costs.

4. Authorize the Department to enter into lease agreements with telecommunication providers to use state highway facilities or right-of-way.

The Legislature provided the Department statutory authority to lease state highway facilities and right-of-way to telecommunication providers. The Department will be able to contract with providers, generating additional funding to help meet statewide transportation needs. Revenues received by the Department for leasing state highway facilities must be deposited to the State Highway Fund. This authority will allow the Department to use state assets to improve the state highway system as it uses more communications technology to meet mobility and safety demands.

5. Require the Department to assist counties with roadway maintenance.

The Legislature added a provision that specifies a minimum level of assistance in roadway materials that the Department must provide counties for road maintenance and repair. TxDOT will be required to provide at least \$12 million in assistance in both fiscal year 1998 and 1999 and \$6 million per fiscal year thereafter. Also, the Department must develop rules and procedures to give assistance to counties with an above average number of overweight trucks receiving weight tolerance permits.

6. Require the Commission to distribute federal funds throughout the state in a manner consistent with federal formulas used to determine state funding levels.

The Legislature added a provision requiring the Commission to use federal highway funds in a manner consistent with formulas used at the federal level to determine the federal highway funding distributed to the state. The provision allows the Commission to vary from the formulas if it issues a ruling providing justification for the variance.

7. Require the Commission to consider the economic status of a county when considering local matching requirements.

The Legislature added a provision that is intended to reduce the highway funding disparity between economically advantaged and disadvantaged counties by requiring the Commission to consider the ability to provide local financial incentives when awarding highway projects. This provision will increase the fairness of the highway project selection process by lessening the emphasis on the ability to pay match or other incentive requirements and increasing the focus on addressing transportation needs.

8. Require the Department to conduct a statewide sound wall barrier study.

The Legislature added two provisions regarding a statewide study of sound wall barriers. First, the Department must conduct a sound wall barrier study to determine the practicality of implementing a statewide noise abatement program. The Department is to use funds already allocated for this purpose. Under the second provision, the Department must, upon request, notify each member of the Legislature who represents a county covered by the study within ten days of releasing the results of the study.

9. Facilitate the process for lowering speed limits on certain rural roadways.

The Legislature added a provision authorizing the Commission, upon the request of the County Commissioners Court of an affected county, to lower speed limits on a farm-to-market or ranch-to-market road that is 20 feet or less in width. Upon receiving the request, the Commission must post notice and conduct a hearing on the request to reduce speed limits. An engineering or traffic investigation is not required to lower the speed limit; however, any Commission decision to lower speed limits must still be based on sound and generally accepted engineering practices. In addition, the Commission must establish standards for determining lower speed limits within a set range.

10. Create a Port Authority Advisory Committee.

The Legislature added a provision creating a Port Authority Advisory Committee to advise the Transportation Commission on matters related to port authorities and especially the inter-modal transportation issues that arise where ground and water transportation meet. The Commission appoints members of the advisory committee with two members representing the Upper Texas coast, two representing the Lower Texas coast, and one representing the Port of Houston.

11. Require TxDOT to conduct a comprehensive analysis of multi-modal use of the state highway system.

The Legislature added a provision requiring the Department to analyze the use of the state highway system and to use the analysis to address safety issues and improve the use of all modes of transportation to meet state transportation needs.

12. The Legislature removed the Sunset Commission recommendation requiring TxDOT and the State Comptroller to study moving the point-of-accountability for collecting motor fuels taxes.

The Legislature did not adopt the Sunset Commission recommendation requiring the Department, in conjunction with the Comptroller, to study the costs and benefits of moving the point-of-accountability for state motor fuels taxes from the distributor to the terminal. The purpose of the recommendation was to develop information useful in determining if additional state funds could be collected from motor fuels taxes without additional burdens being placed on various interest groups, such as oil marketers, agricultural interests, and consumers.

Fiscal Impact

Implementation of the provisions in the final Sunset bill will result in a net positive fiscal impact to the General Revenue Fund for the biennium ending August 31, 1999. The net fiscal gain to the General Revenue Fund results from funds received for the transfer of state assets to NTTA. NTTA is required to provide the Turnpike Division of TxDOT \$1.85 million from the feasibility study fund in 1998 along with an additional sum for consideration of existing TTA facilities and projects transferred to NTTA. The final sum for consideration of these transferred assets is to be determined through an audit conducted by the State Auditor's Office in conjunction with the Comptroller. However, a previous review of TTA reserves indicated that approximately \$10 million in unobligated funds would be available to pay the division, over the biennium, for transferred TTA assets.

The implementation of the provisions of the final Sunset bill will result in a negative net fiscal impact to the State Highway Fund for the biennium ending August 31, 1999. The cost to the State Highway Fund will primarily result from the provision requiring TxDOT assist counties with road maintenance and repair in an amount not less than \$12 million for both fiscal year 1998 and 1999. The minimum assistance required drops to \$6 million per year thereafter. Because TxDOT is already required to provide \$6 million in annual assistance, the net impact to the State Highway Fund for this provision is \$6 million in the first two fiscal years with no impact the last three fiscal years. Other provisions that will result in a cost to the State Highway Fund include employee relocation assistance, implementation and operation of the State Infrastructure Bank, and start-up costs associated with the new Turnpike Division. However, the transfer of TTA assets and employees to NTTA will result in at least a temporary decrease in the number of state employees. The reduction in employees will have no fiscal impact to the State because TTA was not funded by General Revenue or state highway funds.

The State Highway Fund will realize a fiscal gain as a result of the bill provision authorizing the creation of the SIB. The U.S. Department of Transportation will provide \$12 million in seed money for the SIB program beginning in fiscal year 1998. The \$12 million will be distributed over a nine-year period, with the all but eight percent distributed in the next five years. Additionally, several provisions will have a positive impact on the Department's ability to fund needed transportation projects, yet the extent of this positive fiscal impact cannot be estimated. These provisions include the Authority to engage in toll projects, including projects to relieve traffic congestion, electronically issue licenses and process contract bids, and lease state highway improvements to telecommunication providers.

The following chart reflects the net fiscal implications of the bill to both the General Revenue Fund and the State Highway Fund for the first five years following the effective date of the bill.

Five-Year Impact			
Fiscal Year	Gain/(Loss) to General Revenue Fund	Gain/(Loss) to State Highway Fund	Change in Number of State Employees from FY 1997
1998	\$5,178,333	(\$4,485,400)	-227.0
1999	\$6,666,667	\$97,550	-227.0
2000	\$0	\$1,657,550	-227.0
2001	\$0	\$337,550	-227.0
2002	\$0	\$97,550	-227.0

Bill Summary

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 14	Continues the Texas Department of Transportation for 12 Years.
Page 2, Line 2	Updates standard Sunset Commission language requiring one-third of the members of the Commission be public members and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry.
Page 2, Line 14	Updates standard Sunset Commission language that defines grounds for removing a Commission member and requires notification of the Commission's Chairman, the Governor, and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members.
Page 2, Line 21 thru Page 3, Line 25	Adds standard Sunset Commission language requiring a person appointed to the Commission, to be eligible to take office, to complete at least one course of a training program. No longer requires that this training occur before being confirmed by the Senate. Also, entitles a person appointed to the Commission to receive reimbursement for travel expenses for the training program as if they were a member of the Commission.
Page 4, Line 3	Updates standard Sunset Commission language requiring the Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Department.
Page 4, Line 14	Updates standard Sunset Commission language requiring the Commission to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 4, Line 19	Requires the Department to have its statewide headquarters in Austin and deletes an existing requirement that all Department records be maintained in the statewide office.
Page 4, Line 24 thru Page 5, Line 2	Authorizes the Department to accept a donation or contribution from any source and in any form, for the purpose of carrying out its functions.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 5, Line 13 thru Page 6, Line 3	Updates standard Sunset Commission language requiring the Executive Director of the Motor Vehicle Division or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. Replaces the term "guidelines" with the phrase "laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations".
Page 6, Line 7	Updates standard Sunset Commission language requiring the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 6, Line 13	Updates standard Sunset Commission language requiring the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 6, Line 19 thru Page 7, Line 9	Requires the Department to conduct a two-year pilot project to determine if outsourcing maintenance and repair of Department vehicles is cost-effective. Any savings resulting from the pilot must be deposited to the State Infrastructure Bank.
Page 7, Line 14 thru Page 8, Line 6	Updates standard Sunset Commission language requiring the Commission to maintain files on written complaints that the agency has the authority to resolve and notify parties on the status of the complaint on a quarterly basis until resolved.
Page 8, Line 10	Updates standard Sunset Commission language requiring the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 8, Line 20 thru Page 9, Line 8	Requires the Department to conduct a comprehensive analysis of the multimodal use of the state highway system. Requires the Department to use the analysis in a campaign to increase public awareness of traffic safety issues. In addition, requires the Department to work with other state agencies, political subdivisions, and the general public to improve the state highway system to include all modes of transportation.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 9, Line 11 thru Page 11, Line 17 and Page 40, Line 23 thru Page 41, Line 5	Authorizes the Department to issue licenses or permits, or receive the application for licenses and permits, electronically. Specifies that the Department, through rule, may authorize an applicant for a permit to move heavy equipment to submit that application electronically.
Page 11, Line 20 thru Page 12, Line 17	Authorizes the Commission to implement a floral mosaic living logo pilot program and specifies rules to be adopted by the Commission regulating the program. Specifies that the pilot program is limited to counties with a population of 500,000 or greater.
Page 12, Line 20 thru Page 13, Line 7	Requires the Commission to distribute federal highway funds throughout the state consistent with federal formulas used to determine federal funds received by the state. Allows the Commission to vary its distribution of federal funds from the formulas if they issue a ruling or minute order justifying the variance.
Page 13, Line 10 thru Page 14, Line 17	Requires the Commission to consider whether a county is economically disadvantaged when considering local match requirements and offers. Prevents the Commission from considering the absence of local incentives provided above the minimum required match. Requires the Commission to report to the Governor, Lt. Governor, and Speaker on the ability of economically disadvantaged counties to compete for highway funds.
Page 14, Line 21 and Page 15, Line 1 thru Page 17, Line 17	Authorizes the Department to enter into lease agreements with telecommunication providers to use or install facilities in or on the improved portion of a state highway, including medians. Specifies how the Department may be paid for the fair market value of leasing a highway asset. Requires the Department to receive bids to lease portions of the state right-of-way for telecommunication facilities through a competitive bid process. Requires any revenue generated through the lease of right-of-way for telecommunication facilities to be deposited to the State Highway Fund.
Page 17, Line 20 thru Page 25, Line 6	Authorizes the Department to create and use a State Infrastructure Bank (SIB) to encourage public and private investment in transportation facilities and to develop financing techniques that expand available funding for transportation projects. Requires the Department to report to the Legislature on the use and utility of the SIB. In addition, provides authority to issue revenue bonds for the purposes of the SIB. Bonds issued by the Commission must receive Bond Review Board approval. Specifies that funds disbursed from the SIB must be repaid according to terms established by the Commission and consistent with federal law.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 25, Line 10 thru Page 26, Line 4	Requires the Department to develop a schedule for liquidated damages that reflects costs associated with project delays, including administrative and travel. Requires the Department to review a contractor’s bidding capacity to ensure compliance with quality, timeliness, and safety standards set by the Transportation Commission. Additionally, requires a review to determine if Commission rules or state law should be changed to realize cost and time savings on state highway and maintenance projects. Requires the Department to report to the Governor, Lieutenant Governor, and Speaker on the results and recommendations of the review.
Page 26, Line 5	Authorizes the Department to establish an electronic bidding system for highway and maintenance contracts. Allows a qualified vendor to submit an electronic bid, changes the requirement to open bids at a public hearing to only being publicly posted within 48 hours after bids are opened, and authorizes the Department to charge a fee for manually processed bids once the electronic system is established.
Page 26, Line 23 thru Page 28, Line 11	Requires the Department to use private sector engineering-related services to assist in providing transportation projects. Ties Department expenditures for private sector engineering-related services to a percentage of total funds appropriated for the planning, design, management of the state highway system. Requires the Department, beginning in fiscal year 2000, to increase its use of private sector engineering services by one percent each year until reaching 35 percent. Maintains that these expenditures are minimums and requires the Department to provide hearings for complaints concerning the selection process. Requires the Department to outsource engineering-related services in a manner consistent with applicable HUB provisions of the Government Code, the most recent applicable disparity study, and in accordance with the good faith efforts procedures in the rules promulgated by the General Services Commission.
Page 28, Line 16 thru Page 35, Line 13 and Page 35, Line 16 thru Page 36, Line 8	Authorizes the Commission to spend or allocate available funds to designate carpool or high occupancy vehicle lanes (HOV) to relieve congestion or make other designations of dedicated HOV lanes. Allows the Commission to authorize the Department or a transportation corporation to charge a toll for the use of one or more lanes of a state highway facility, including HOV lanes, for the purpose of congestion mitigation. Revenue generated by the Department through tolls must be deposited to the State Highway Fund. Provides for an administrative fee and prosecution for non-payment of a proper toll. Authorizes transportation corporations located in counties of 500,000 or more, to participate in congestion mitigation projects. Requires the Department consider offering motor vehicle operators the option of using a transponder to pay tolls on a non-stop basis.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 36, Line 18 thru Page 37, line 4 and Page 37, Line 7	Authorizes the Commission to enter into an agreement with a County Commissioners Court, instead of a Commissioners Court contracting with the Department, for the improvement of the state highway system. Improvement includes construction, reconstruction, and maintenance projects.
Page 37, Line 24 thru Page 40, Line 20	Requires the Department to consider transportation needs of clients of health and human services agencies in performing its public transportation planning and funding activities. Acknowledges the intent to use existing transportation networks to meet client transportation needs while recognizing the contributions of non-profit entities dedicated to providing social services and encourages continued community involvement of these entities. Requires a social service provider to coordinate with local transportation providers to the greatest extent possible to maximize efficiency and effectiveness of transportation services. Requires the Department to provide a listing of providers to each social service agency.
Page 41, Line 6	Requires the Department to complete a study of alternative routes for a second transportation link from the mainland to South Padre Island. Specifies considerations of the study. Requires the Department to report to the Legislature, not later than December 31, 1998, on plans to implement the study's recommendations.
Page 42, Line 16	Requires the Commission to develop a cost/benefit analysis to determine the appropriate use of local materials previously used by the Department for roadways, versus materials blended or transported from other sources.
Page 42, Line 22 thru Page 44, Line 6	Authorizes the Department to enter into interlocal contracts with local governments for the financing of transportation infrastructure within the territory of the local government. Specifies that the contract may establish one or more transportation infrastructure zones. Authorizes local governments to pay the Department with ad valorem tax collections attributable to increased property values located in a infrastructure zone. The amount of payment may not exceed 30 percent of the increase in ad valorem tax collections. Payments received by the Department may be used to satisfy local match requirements or for the design, construction, operation, or maintenance of transportation facilities in the territory of the local government. Specifies that this Section only applies to corridors where no existing state or federal highway is located and that an agreement made under this Section may not exceed 12 years.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 44, Line 9 thru Page 45, Line 8	Creates a Port Authority Advisory Committee, appointed by the Transportation Commission, to provide advise on matters relating to port authorities. Membership consists of one member representing the Port of Houston, two members representing ports from the upper Texas coast, and two representing ports from the lower Texas coast.
Page 45, Line 11	Authorizes the Commission to require through rule the approval of any product or material for use in all Department districts if already approved for use in any one district.
Page 45, Line 16 thru Page 46, Line 14	Authorizes the Commission, by rule, to establish procedures for the informal resolution of a claim arising out of contract with the Department. Codifies the contract claim procedures for contracts of the Department.
Page 47, Line 7	Requires the Department to create and maintain an accounting structure for roadway and warehouse inventory that must account for lost or destroyed materials.
Page 47, Line 13 thru Page 49, Line 5	Authorizes the Department to provide additional relocation assistance for transferred employees above authority granted by existing state law by allowing assistance for relocation costs for five employees per year at a total of \$15,000 per employee.
Page 49, Line 8	Authorizes the Department to construct sound wall barriers along the right-of-way of a railroad that runs parallel or adjacent to a road or highway.
Page 49, Line 15	Requires the Department to coordinate with local flood control authorities to minimize flooding that results from the construction of highway projects.
Page 49, Line 21 thru Page 50, Line 14	Requires the Department to assist counties with the maintenance of county roads by providing materials. Specifies the minimum level of assistance the Department is required to provide be at least \$12 million for fiscal years 1998 and 1999 and at least \$6 million per year thereafter with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits.
Page 50, Line 17 thru Page 52, Line 19	Authorizes the Department to provide for the installation, operation, and maintenance of an emergency call box system. Specifies that this authorization does not extend to farm-to-market or ranch-to-market roadways. The Department may implement a call box system if a public or private entity provides all direct and indirect costs. Requires the Advisory Commission on State Emergency Communications to cooperate in the design, establishment, operation, and maintenance of an emergency call box system.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 52, Line 23 thru Page 53, Line 10	Clarifies Department liability concerning the removal of damaged or disabled vehicles from the right-of-way or roadway of the state highway system.
Page 53, Line 20 thru Page 55, Line 20	Requires the Department to issue specialty license plates that include the name and insignia of a professional sports team located in this state. Plates may only be issued for teams that can certify that at least 5,000 persons will apply for the plates and that play their home games in a facility constructed or operated with public funds. Sets the fee for the plates at \$35 in addition to the standard license fee, with \$25 going to the public entity that provided public funds for the construction or renovation of the facility the team plays its home games. Specifies how funds received by a public entity for the sale of specialty license plates may be used. Requires funds to be deposited to a venue project fund. If no venue project fund exists, the funds must first be used to retire any public debt incurred by the public entity in the construction or rehabilitation of the facility. After the debt has been retired, funds may be spent only for maintenance or improvement of the facility.
Page 55, Line 23 thru Page 56, Line 18	Authorizes the Commission, upon the request of the County Commissioners Court of an affected county, to lower speed limits on a farm-to-market or ranch-to-market road that is 20 feet or less in width. An engineering or traffic investigation is not required to lower the speed limit. Requires the Department, upon request of a County Commissioners Court in an affected county, to post notice for a hearing on the proposal to reduce speed limits.
Page 56, Line 21 thru Page 57, Line 23	Authorizes the Department to move to dismiss a condemnation proceeding but allows the court to grant the dismissal only if the property owner will not be materially affected by the dismissal. Upon dismissal, the court must make an allowance for any costs or damages incurred to the property during the proceeding if the dismissal was initiated by the Department.
Page 57, Line 24 thru Page 58, Line 3	Requires the Department to conduct a feasibility study to determine the need for additional public rest areas with restrooms along IH-35 between Laredo and San Antonio.
Page 58, Line 4 thru Page 59, Line 6	Prohibits the Department from selling motor vehicle certificate of title information or motor vehicle registration personal information unless the purchaser agrees in writing with the Department not to distribute or publish the information on the Internet, or permit another to publish the information on the Internet or other computer cyberspace or bulletin board. Specifies the penalty for a violation as punishable by a fine of not more than \$1,000, confinement in a county jail for not more than six months, or both.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 59, Line 7	Clarifies that a member of the Transportation Commission cannot receive compensation for the sale of property for highway right-of-way purposes. A member of the Commission may still donate property to the Department for right-of-way purposes.
Page 59, Line 9	Requires the Department to conduct a sound wall barrier study to determine the practicality of implementing a statewide noise abatement program. Requires the Department, within ten days of releasing the sound wall study, to notify each member of the Legislature who represents a county covered by the report or study. Additionally, upon request by a member, the Department shall provide a copy of the report or study.
Page 60, Line 1	Adds standard Sunset Commission language preventing the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices. Specifies that the standard language only applies to the occupation of outdoor advertiser.
Page 60, Line 21	Adds standard Sunset Commission language establishing a method for license renewal and a time-frame and penalty structure for delinquent renewals.
Page 61, Line 4	Updates standard Sunset Commission language requiring the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 61, Line 13 thru Page 64, Line 16	Requires the Commission to enter into contracts to erect and maintain major agricultural interest signs at appropriate locations along rural highways. Requires the Commission to authorize the director to grant variances on a case-by-case basis and specifies conditions under which the director may grant a variance. Exempts a small business from the regulation of outdoor signs on rural roads if the business sign meets certain conditions. Specifies when the Department may issue a permit for an off-premise sign.
Page 64, Line 22	Updates standard Sunset Commission language requiring appointments to the Motor Vehicle Commission be made without regard to race, color, disability, sex, religion, age or national origin.
Page 65, Line 3 thru Page 66, Line 7	Adds standard Sunset Commission language requiring a person appointed to the Motor Vehicle Commission, to be eligible to take office, to complete at least one course of a training program. No longer requires that this training occur before being confirmed by the Senate. Also, entitles a person appointed to the Commission to receive reimbursement for travel expenses for the training program as if they were a member of the Commission.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 66, Line 11	Updates standard Sunset Commission language requiring the Motor Vehicle Commission to comply with the open meetings and administrative procedures laws.
Page 66, Line 21 thru Page 67, Line 1	Updates standard Sunset Commission language that defines grounds for removing a Motor Vehicle Commission member and requires notification of the Commission's Chair, the Governor and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Commission is valid even if it is taken when a ground for removal exists for one of the members.
Page 67, Line 9	Updates standard Sunset Commission language requiring the Motor Vehicle Commission to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Commission.
Page 67, Line 20	Updates standard Sunset Commission language requiring the Motor Vehicle Commission to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.
Page 68, Line 1	Updates standard Sunset Commission language requiring the Motor Vehicle Commission to maintain files on written complaints that the agency has the authority to resolve and notify parties on the status of the complaint on a quarterly basis until resolved.
Page 69, Line 5	Updates standard Sunset Commission language requiring the Executive Director of the Motor Vehicle Division or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees and requires intra-agency postings of job openings concurrently with any public posting.
Page 69, Line 10	Updates standard Sunset Commission language requiring the Executive Director of the Motor Vehicle Division or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 69, Line 17 thru Page 70, Line 12	Updates standard Sunset Commission language requiring the Executive Director of the Motor Vehicle Division or a designee to develop an equal employment policy that is annually updated, reviewed by the Texas Commission on Human Rights, and filed with the Governor's Office. Replaces the term "guidelines" with the phrase "laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations".

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 70, Line 20 thru Page 71, Line 12	Prohibits the Motor Vehicle Board from filing a complaint alleging a violation relating to advertising, including a Board advertising rule, until the Board has notified the licensee involved of the alleged violation and given the licensee an opportunity to cure the violation without further proceedings or liability.
Page 71, Line 16 thru Page 72, Line 3	Adds standard Sunset Commission language authorizing the Commission to adopt a staggered license renewal system.
Page 72, Line 9	Adds standard Sunset Commission language establishing a method for license renewal and a time-frame and penalty for delinquent renewals for motor carrier registrations.
Page 73, Line 3 thru Page 74, Line 21	Updates standard Sunset Commission language requiring the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or Department rules regarding motor carriers.
Page 74, Line 24 thru Page 75, Line 11	Adds standard Sunset Commission language preventing the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 75, Line 15 thru Page 82, Line 3	Adds additional requirements for movers of household goods to ensure consumer protection, including listing a business address, providing proof of cargo insurance, and the advertising of any limitations on carrier liability for loss or damage. Requires the Department to appoint a rules advisory committee, consisting of motor carriers who transport household goods, to examine rules adopted by the Department, conduct a study of the feasibility and necessity of requiring liability insurance for household goods carriers, and recommend a maximum level of liability limitation.
Page 82, Line 11 thru Page 85, Line 22	Outlines provisions and provides administrative penalties regarding the regulation of foreign involvement in commercial motor transportation. Requires the Department to adopt rules that require motor carriers operating vehicles in this state to maintain financial responsibility. Prohibits a foreign motor carrier or foreign motor private carrier from transporting persons or cargo in intrastate commerce in this state unless the carrier is authorized to conduct operations in interstate and foreign commerce domestically between points in the U.S. and under federal law or international agreement.
Page 85, Line 25 thru Page 87, Line 4	Requires an owner or operator of a tow truck to display the name and address of the owner/operator and the registration number to ensure consumer protection.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 87, Line 8	Adds standard Sunset Commission language preventing the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 88, Line 3 thru Page 89, Line 9	Updates standard Sunset Commission language establishing a method for license renewal and a time-frame and penalty for delinquent renewals for salvage vehicle dealer licenses.
Page 89, Line 14	Updates standard Sunset Commission language entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 89, Line 21 thru Page 90, Line 9	Adds standard Sunset Commission language preventing the Commission from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 90, Line 14	Adds standard Sunset Commission language establishing a method for license renewal and a time-frame and penalty for delinquent renewals for vehicle storage facility licenses.
Page 90, Line 22	Updates standard Sunset Commission language requiring the Commission to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 91, Line 1	Updates standard Sunset Commission language entitling licensees to a hearing conducted by the State Office of Administrative Hearings before any sanction may be taken against their license.
Page 91, Line 14	Authorizes the Department to spend funds from any source on toll facilities.
Page 91, Line 17	Authorizes the Department to impose a temporary toll on a non-toll state highway to recover maintenance costs after providing notice and conducting a public hearing.
Page 91, Line 22 thru Page 92, Line 17	Authorizes the Department to participate in a private or public tollway project on terms established by the Commission and requires the Department to report to the members of the Legislature regarding the status of highway construction projects in their districts and the status and effect of projects for which the Department has loaned funds.
Page 93, Line 1	Expands current law to include Regional Tollway Authority (RTA) projects to the list of turnpike projects that do not require the approval of the Transportation Commission.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 93, Line 7 thru Page 94, Line 8	Redefines the Texas Turnpike Authority as a Division of the Texas Department of Transportation and redefines turnpike project to include toll projects maintained and operated as part of the state highway system. Defines Regional Tollway Authority as a regional toll authority created under Chapter 366, Transportation Code.
Page 94, Line 12 thru Page 95, Line 25	Transfers the functions of the Texas Turnpike Authority to TxDOT by creating a separate, independent Division of TxDOT. Grants the Turnpike Division full authority to study, design, construct, operate, and extend a turnpike project as part of the state highway system. Provides for the Transportation Commission to employ the Director of the Turnpike Division. Grants authority to procure services from other divisions of the Department or from outside providers.
Page 96, Line 3	Reduces the number of members on the Turnpike Division Board from twelve to six, appointed by the Governor, with a member of the Transportation Commission serving ex officio.
Page 96, Line 17	Updates standard language adopted by the Sunset Commission prohibiting appointment to the Turnpike Board if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the agency. Deletes language that would allow members to receive compensation for the acquisition of right of way.
Page 97, Line 6 thru Page 98, Line 8	Adds standard Sunset Commission language requiring a person appointed to the Turnpike Board, to be eligible to take office, to complete at least one course of a training program. No longer requires that this training occur before being confirmed by the Senate. Also, entitles a person appointed to the Board to receive reimbursement for travel expenses for the training program as if they were a member of the Board.
Page 98, Line 11 thru Page 99, Line 23	Expands the powers and duties formerly assigned to TTA and now assigned to the Turnpike Division. Requires the Division to study and develop turnpike projects on its own initiative or at the request of the Commission. Authorizes the Division to employ attorneys to defend it in legal actions regarding its activities and also to adopt rules with the concurrence of the Commission. Authorizes the Division to enter into contracts with similar authorities or agencies of another state with the approval of the Governor and the Commission.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 100, Line 3 Page 101, Line 3 thru Page 103, Line 11	Expands the list of eligible successor agencies to the Texas Turnpike Authority for purposes of Section 52-b, Article III, Texas Constitution to include the Department, municipalities, and public and private entities authorized to receive funds from the Department for turnpike projects. Requires TxDOT to find that the use of a private entity must fill a demonstrated public need before the private entity may be considered a successor agency. Authorizes the Board to acquire property for the purposes of expansion, enlargement, extension, or improvement, in addition to purposes already granted the Department. Authorizes the Board to secure reservation rights in real property. Specifies the purposes for which the Division may acquire property, including to protect or drain a turnpike project, construct a roadside park or mitigate an adverse environmental effect of a turnpike project.
Page 103, Line 15 thru Page 105, Line 3	Requires the concurrence of the Commission before the Board may condemn property. Allows the Board to condemn property for access, approach, and interchange roads.
Page 105, Line 14	Deletes existing provisions that require the maintenance of a passageway over or under a turnpike for the owner of severed real property in excess of 80 acres and require the disposal of all severed property within two years.
Page 106, Line 2	Specifies that any covenants, conditions, restrictions, or limitations affecting acquired property by the authority are not binding. Beneficiaries of such restrictions may not enjoin the authority from using the property, but may seek damages under Section 17, Art. 1, Texas Constitution.
Page 106, Line 15	Authorizes the Commission to impose a toll on a free public highway if the highway has been converted to a toll facility under existing law or new provisions for recovering costs on nontoll segments by temporarily imposing a toll.
Page 106, Line 23 thru Page 107, Line 8	Permits the Turnpike Board to transfer or direct the Turnpike Division to transfer funds, including advances from State Highway Fund, to the Division project revolving fund if the advances are repaid as required under the Constitution.
Page 107, Line 16 thru Page 108, Line 18	Allows the Commission to use surplus revenue to pay the costs of another turnpike project and a toll free project. Deletes the requirement for TTA to obtain the approval of the County Commissioners Court for each county in which a project is located before it may use surplus revenue on another turnpike project.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 108, Line 21	Exempts any highway converted from the state highway system to a turnpike project from the requirements that a turnpike project may not be undertaken to substitute for an existing highway.
Page 109, Line 1 Page 109, Line 10 thru Page 111, Line 10	Defines a turnpike project as a public road subject to all applicable laws regarding the regulation and control of traffic and deletes language requiring TTA to police turnpike projects and authorizing TTA to arrange for police services with the Department of Public Safety. Specifies that a turnpike project becomes toll-free when either the bonds are paid off or firm banking and financial arrangements have been made for the final payment of the bonds. Allows the Commission to continue to charge a toll sufficient to pay the costs of maintaining the facility even if these two conditions are met. Deletes language stating the a turnpike project becomes part of the state highway system and is operated toll-free when bonds are paid off but only if the project is in good repair to the satisfaction of the Commission. Adds language requiring the Turnpike Division to consider offering motor vehicle transponders to pay tolls on a non-stop basis.
Page 111, Line 14 thru Page 112, Line 19	Amends heading and makes conforming change to add cities with more than 120,000 and that border on Mexico and also adds RTAs to the entities that may be transferred a turnpike project. Also, adds cities and RTAs to the local governments that may lease or buy a project of the Turnpike Division, upon approval of the Division, the Commission, and the Governor and requires them to receive approval of the Attorney General for the lease, sale, or conveyance of a turnpike project.
Page 113, Line 2	Deletes provision for county approval of pooled turnpike projects but requires a public hearing in each affected county. Updates reference to metropolitan planning organizations.
Page 113, Line 15 thru Page 114, Line 24	Authorizes the Commission to convert a free state highway to a turnpike project of the Turnpike Division if it is the most feasible and economic way to accomplish necessary improvement. Deletes language that required the Governor's approval for such a conversion. Deletes language requiring the TTA to reimburse the Commission for the cost of the highway, unless the Commission finds that the transfer will result in substantial net benefits to the state, Department and traveling public. Also deletes language requiring the Commission to remove the transferred highway from the state highway system.
Page 115, Line 4	Creates Chapter 366.001, Transportation Code and names it the Regional Tollway Authority Act.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 115, Line 6 thru Page 118, Line 25 Page 119, Line 4	States the purpose of the Chapter as to expand and improve transportation in the state, create regional tollway authorities, and reduce demands on TxDOT. Provides definitions, including authority, bond, bond resolution, local government entity, and turnpike project. Defines acceptable turnpike project construction costs. Permits two or more counties to create an RTA, subject to Commission approval, if one of the counties has a population of at least 300,000. Commission approval is not required if one of the counties has a population of 1.5 million or more. A county may seek to be included in an RTA if it is contiguous to a county that initially created the RTA. The Commission must adopt rules to implement these provisions by March 1, 1998.
Page 119, Line 22 thru Page 120, Line 12	Establishes RTAs as political subdivisions of the state and specifies that the exercise of an RTA's powers is an essential governmental function of the state.
Page 120, Line 13 thru Page 124, Line 6	Provides for the general powers of RTAs. RTAs may adopt rules and take actions necessary or appropriate to carry out the powers of the chapter. RTAs may acquire property, enter into contracts, employ and compensate administrators, receive loans and grants, install and relocate utilities, adopt and enforce rules, enter into leases and operating agreements, and enter into a contract with a local governmental entity or the Department to operate a turnpike project. Rules adopted by an RTA are subject to the Administrative Procedure Act and provisions for declaratory judgment in determining the validity or applicability of a rule, except that action may be brought only in a district court of a county located in the RTA. RTAs must adopt a drug and alcohol policy for RTA employees and may adopt policies for testing employees suspected of being in violation of its drug and alcohol policy. RTAs must adopt written procedures governing its procurement of goods and services, consistent with general laws applicable to the authority.
Page 124, Line 7	Allows RTAs to operate two or more turnpike projects as a turnpike system, as long as the revenue of a system is accounted for separately and is not commingled with a project that is not part of a system.
Page 124, Line 24 thru Page 126, Line 15	Provides for the conversion of a segment of the state highway system to a toll project. A segment of the free state highway system, located within a county served by an RTA, may be transferred to an RTA, after a public hearing, subject to approval by the Governor and the RTA. The RTA shall reimburse the Commission for the highway, unless the Commission determines that the transfer will result in substantial net benefits to the state.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 126, Line 18 thru Page 127, Line 17	Permits RTAs to pay the expenses of studying the cost and feasibility of a proposed turnpike project with legally available revenue derived from an existing turnpike project or system, borrowing money, issuing bonds, or pledging future revenue from an existing turnpike. Money spent to study the feasibility of a future turnpike project must be reimbursed to the system from which it came. Only surplus funds of one turnpike project may be used to study the feasibility of another turnpike project or system.
Page 127, Line 18 thru Page 128, Line 25	Permits RTAs to maintain a feasibility study fund and to transfer surplus revenue into the fund. Money in this fund may be used only to study the feasibility of issuing bonds for the acquisition and construction of a proposed turnpike project, financing the expansion of existing projects, or private financing of a turnpike project.
Page 129, Line 1	Permits municipalities, counties, local governments and private groups or a combination of these entities to pay all or part of the expenses of preparing bonds or studying a proposed project. If RTAs agree, they can pay back the funds advanced to it by a municipality, county, local government or private group without interest from the proceeds of the sale of bonds or toll revenue.
Page 130, Line 2 thru Page 131, Line 16	Authorizes RTAs to issue bonds for all or part of construction costs, to refund previously issued bonds, or for the cost of a project or system that will become a part of another system. Affirms that bonds and income from the bonds are exempt from taxation.
Page 131, Line 17 thru Page 132, Line 1	Authorizes RTAs the authority to issue interim bonds.
Page 132, Line 2 thru Page 133, Line 6	States that the principal and interest of bonds issued by an RTA are not a debt of the state or of a county, and are payable solely from a turnpike's revenue, agreement with the Commission or a local government, or money derived from any other source available to RTAs.
Page 133, Line 7	States that a lien on or a pledge of revenue from a turnpike project or system is enforceable at the time of payment for and delivery of the bond.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 133, Line 23 thru Page 135, Line 14	Provides for turnpike bonds by RTAs to be secured by a bond indenture that pledges the tolls and other revenue received but does not convey or mortgage any part of a turnpike project. The bond indenture sets out the rights of the bondholders and the trustee and contains provisions for the security of the bondholders, including covenants regarding the construction and operation of turnpikes, the protection of money, and the governance of bonds. An owner or trustee of a bond may enforce their rights against the Authority and may require the Authority to collect tolls to carry out the agreement in the bond proceedings and may get a receiver appointed for the turnpike project.
Page 135, Line 15 thru Page 136, Line 11 Page 136, Line 12	Requires the Attorney General to approve all bonds and bond proceedings before they become valid and enforceable. Authorizes a bank or trust company, acting as a depository of the bond proceeds or toll revenue, to furnish indemnifying bonds or pledge securities that an Authority requires. Bonds issued, under this section, by an RTA may secure the deposit of public money.
Page 136, Line 21 thru Page 137, Line 7	Makes RTAs subject to all laws affecting the issuance of bonds by local entities, providing supremacy to the specific provisions applicable to RTAs.
Page 137, Line 11	Authorizes RTAs to construct or extend turnpike projects in counties that are in the RTA or counties with a continuation of an RTA project or system.
Page 137, Line 19 thru Page 138, Line 2	Authorizes RTAs to construct or improve a turnpike project on acquired or donated right-of-way and provides RTAs the same powers as the Transportation Commission in acquiring property, except as specifically limited.
Page 138, Line 3 thru Page 139, Line 7	Allows RTAs to acquire real and other property as necessary or convenient for constructing, operating, maintaining, and expanding a turnpike project and specifies the types of property and rights that RTAs may acquire. RTAs may acquire real property by purchase and condemnation. In addition, covenants and restrictions on property obtained by RTAs are not binding and do not impair the ability to use the property turnpike purposes. Beneficiaries of these covenants and restrictions may not enjoin the Turnpike Division or RTA from using the property, but also are not prevented from seeking damages under the Constitution resulting from a taking of the property. An RTA must still meet its obligation under state law to compensate the state for acquiring or using property owned by or on behalf of the state.
Page 139, Line 8	Authorizes RTAs to enter real property in connection with an acquisition for a turnpike project to conduct a survey or other examination. Specifies that such an entry is not a trespass or an entry under a pending condemnation proceeding and that the RTA must pay for actual damages that result when it enters property.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 139, Line 18 thru Page 140, Line 23	Allows RTAs to acquire real property through condemnation under the same laws of condemnation of property for public use and specifies guidelines for an RTA's use of these condemnation powers, including the authority to mitigate an environmental effect that directly results from the construction, operation or maintenance of a turnpike project. An RTA may build supplemental facilities only on property that it purchases. The acquisition of Commission property is a conversion of a state highway, subject to the requirements of such a conversion.
Page 140, Line 24 thru Page 143, Line 3	Establishes procedures for RTAs to file a declaration of taking and lists the elements that such a declaration must include. RTAs filing a declaration of taking must either deposit funds with the court or post a bond to cover the value of the property and any damages to the remaining property, as of the filing date. Property owners in an RTA condemnation proceeding may draw on deposits held by the court under the same terms as in special commissioners' awards in condemnation proceedings.
Page 143, Line 4	Requires RTAs to serve a copy of a declaration of taking on each person with an interest in the condemned property immediately after filing the declaration. RTAs may take possession of the property on the same terms as if a commissioner's hearing had been conducted. RTAs may not take possession of a homestead before the 31st day after serving the declaration of taking. An owner or tenant who refuses to give up property is subject to forcible entry and detainer.
Page 143, Line 20 thru Page 144, Line 8	Requires RTAs to pay owners for the value of the property acquired and any damages to the remaining property if a project severs the owner's real property. Allows authorities to negotiate for the purchase of uneconomic remainders and to sell unnecessary property.
Page 144, Line 9 thru Page 145, Line 12	Allows RTAs to use real property owned by the state or local government that the RTA considers necessary for turnpike projects and allows the state or local government to consent to the use of property for a turnpike project. Except as provided for converting state highways to toll projects, the state or local government may convey property, including highways, as necessary or convenient for turnpike purposes and may do so under normal action necessary for a conveyance, grant, or lease. The School Land Board retains the power to lease state-owned lands adjoining a turnpike project for oil, gas, or other minerals. An RTA must still meet its obligation under state law to compensate the state for acquiring or using property owned by or on behalf of the state, and its use of state property is subject to covenants and restrictions affecting the property.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 145, Line 13 thru Page 146, Line 11	Prohibits RTAs from paying for public real property taken, except for state highways that are converted to toll projects and except for parks and playgrounds and state property which requires payment to the state for its use or acquisition. In addition, public property damaged by an Authority must be restored or repaired. RTAs have full easements and rights of way through state or local government land as necessary to build and operate turnpike projects, except that they must still meet their obligation under other state law to compensate the state for the use or acquisition of an easement or right of way on state property. Also, an RTA's use of state property is subject to covenants and restrictions affecting the property.
Page 146, Line 12 thru Page 148, Line 21	Allows RTAs to adopt rules regarding public utility facilities involved in turnpike projects and requires utility owners or operators to relocate or remove utility facilities with costs paid by the RTA. RTAs may reduce the costs of utility relocation or removal if the relocation does not occur in timely fashion as agreed to by the utility and the RTA. In addition, if the utility does not relocate in a timely fashion, RTAs may relocate utilities at the utility owner's expense. The same laws that govern electric, telecommunications, and gas corporations along county and public roads and waters also apply to their activities along a turnpike project or system built by an RTA.
Page 148, Line 22 thru Page 149, Line 8	Authorizes an RTA to lease or sell a turnpike project to TxDOT, county, or local government corporation subject to approval of the appropriate governing entity. Requires an agreement to provide for the discharge and final payment of the Authority's outstanding bonded indebtedness.
Page 149, Line 9 thru Page 151, Line 10	Specifies ways RTAs may collect revenue, including the imposition of tolls on its turnpikes, contract for the use of part of a turnpike project, or the sale or lease of a turnpike project, including the right of way along a turnpike, for purposes such as the location of a gas station, garage, or store. Tolls must be set to pay for upkeep of the turnpike project and to retire bonds issued for the turnpike project and are not subject to regulation by any state agency or local government. Tolls and other revenue must be set aside in a sinking fund to be used to pay principal and interest on bonds and other uses, subject to bond proceedings. Revenues from one turnpike project of an Authority may be used to pay costs of other turnpike projects of the Authority, as permitted under the bond proceedings. RTAs may not use turnpike revenue for any purpose that is not related to a turnpike project.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 151, Line 11 thru Page 153, Line 6	Authorizes an RTA to maintain a revolving fund to be held in trust by a banking institution chosen by the Authority. Allows the transfer of money into the fund from any permissible source, including money from turnpike projects, money received by an Authority that is not otherwise committed, advances authorized in the Constitution, and grants or loans from the United States, another state, other political subdivision, or foreign governmental entity. Specifies uses of the revolving fund, including the financing of turnpike projects, providing matching funds, and providing credit enhancements for turnpike bonds. Requires money spent from the revolving fund on a turnpike project to be reimbursed from funds generated by that same turnpike.
Page 153, Line 7	Authorizes an RTA's Board to use surplus revenue from a turnpike project to pay the costs of another turnpike project, as long as the Authority does not violate a bond resolution, trust agreement, or indenture governing the use of surplus revenue.
Page 153, Line 16 thru Page 154, Line 2	Exempts RTAs from taxation on turnpike projects, Authority property, or income, and exempts an Authority from fees associated with the development of turnpike projects.
Page 154, Line 3	Authorizes RTAs to impose a toll for transit over an existing free road transferred to the Authority. Allows the Authority to construct a grade separation where a turnpike project intersects a railroad or highway and requires the Authority to pay the costs. Requires RTAs, if feasible, to provide access for properties that had abutted a public road taken for a turnpike project and to pay damages for a denial of access to the road.
Page 154, Line 20 thru Page 156, Line 25	Establishes the requirement for motor vehicles other than police or emergency vehicles to pay proper tolls. Persons who fail to pay the toll are liable for a fine up to \$250 and an administrative fee of up to \$100 to cover the Authority's cost of collecting the toll. The owner of nonpaying vehicle must pay the toll and the administrative fee. Proof that the vehicle passed through a toll facility without paying the toll and proof of ownership of the vehicle establishes nonpayment by a registered owner. The court with jurisdiction over the violation assesses court costs in addition to fines and collects and forwards the toll and administrative fee to the RTA.
Page 157, Line 1	Adds language specifically authorizing RTAs to provide transponders to motor vehicle operators to pay tolls on a non-stop basis and provides for the seizure of stolen or insufficiently funded transponders.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 157, Line 24 thru Page 158, Line 20	Authorizes RTAs to control access to its turnpike projects and specifies that denial of access to or from the state highway system is subject to approval by the Transportation Commission.
Page 158, Line 21	Authorizes an RTA to promote the use of its turnpike projects through advertising and marketing.
Page 158, Line 25 thru Page 159, Line 11	Requires RTAs to police and operate turnpike projects through toll takers and other RTA employees. RTAs may enter into agreements to develop turnpike projects and may contract with state or local governments for peace officers.
Page 159, Line 12	Requires an annual audit of RTAs with costs of the audit treated as part of the cost of constructing or operating a turnpike project.
Page 159, Line 16	Requires RTAs to set goals for awarding contracts to disadvantaged businesses and to identify disadvantaged businesses that may provide materials or services to the Authority and provide those businesses access to the bidding process.
Page 160, Line 5	Requires RTA contracts involving public funds for the construction and maintenance of turnpike projects to be by competitive bid in which the contract is awarded to the lowest responsible bidder according to criteria and rules developed by the RTA.
Page 160, Line 15 thru Page 161, Line 25	Provides for governance of an RTA authority by a Board of Directors with the Commissioners Court of each county in the Authority appointing one director and the Governor appointing three directors. Two of the Governor's appointees must reside in a county that is in the RTA and the remaining Governor appointee must reside in a county that is adjacent to a county in the RTA. The Governor must try to represent the diversity of the Authority in making appointments. Directors serve two-year terms, except that one group of directors on the initial Board serve one-year terms. Directors must meet residency and other requirements for the appointment of Board members. The Directors must elect from among their members a presiding officer and an assistant and must select a Board secretary and treasurer who do not need to be Board members.
Page 162, Line 1 thru Page 163, Line 11	Adds standard language developed by the Sunset Commission. Prohibits appointment to the Board of an RTA if the person or the person's spouse is a licensee, conducts business with the Authority, or otherwise has financial ties to the Authority other than compensation for acquisition of turnpike right of way. Prohibits appointment to an RTA Board if the person or person's spouse is an officer or employee of a related trade association or is a registered lobbyist. Also defines Texas trade association.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 163, Line 12	Requires each member of an RTA Board of Directors to execute surety bond for \$25,000 and the Board secretary and treasurer to execute a bond for \$50,000. Provides for the Authority to pay the expense of the bonds.
Page 163, Line 23 thru Page 164, Line 18	Adds standard language developed by the Sunset Commission. Defines grounds for removing a member of the Board of Directors and requires notification of the Board's presiding officer who notifies the person who made the appointment that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the Board members.
Page 164, Line 19	Specifies that directors may be reimbursed for actual expenses incurred in performing their duties, but that they are not entitled to additional compensation.
Page 164, Line 24 thru Page 165, Line 1	Specifies that actions of an RTA are the actions of its Board and may be evidenced in any legal manner.
Page 165, Line 2	Adds standard language developed by the Sunset Commission. Requires the Authority to give the public reasonable opportunity to appear before the Board regarding issues under the Authority's jurisdiction. Requires the Authority to develop a plan that describes how persons who do not speak English or who have a disability may be provided reasonable access to the Authority's programs.
Page 165, Line 10 thru Page 166, Line 2	Allows an RTA to indemnify its officers and former officers for costs incurred in connection with a claim against them in their official capacity. A court may assess indemnity against an RTA, if the Authority does not fully indemnify the officer, only if the court determines that the officer is not guilty of negligence or misconduct.
Page 166, Line 3	Requires an RTA to insure its officers and employees from liability resulting from the use of equipment in developing turnpike projects. Requires the form of the policy to be approved by the Commissioner of Insurance and specifies that the purchase of liability insurance is not a waiver of immunity of the Authority or counties from liability for torts or negligence of an officer or employee.
Page 166, Line 19 thru Page 167, Line 1	Prohibits Directors and employees of an Authority from having a contractual or financial interest in the Authority. Violators are subject to a civil penalty of up to \$1,000.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 167, Line 2	Requires RTAs to prepare a five-year strategic plan each even-numbered year providing information determined by the Commissioners Courts of the counties in the RTA. In addition, RTAs must file an annual report with the Commissioners Court of each county in the RTA, and representatives of the RTA Board and the administrative head must appear before a Commissioners Court at the court's invitation to present the report. The annual report must include a description of turnpike revenue bond issuances expected in the next year, the RTA's financial condition, project schedules, and the RTA's performance under its most recent strategic plan. Also, RTAs must give notice to County Commissioners of each county in the RTA 90 days before the issuance of revenue bonds.
Page 167, Line 24 thru Page 168, Line 16	Allows an Authority's Board of Directors to conduct meetings by telephone conference call, subject to the same notice requirements as other meetings. Provides for public access to these meetings and tape recordings and written minutes.
Page 168, Line 19 thru Page 169, Line 14	Allows TxDOT to help pay costs for developing turnpike projects through an agreement with an RTA and allows the use of federal funds for this purpose. Allows TxDOT to use its own or other personnel, including consulting engineers, to conduct feasibility studies. Specifies that any cost incurred by TxDOT or the Authority is part of the cost of the turnpike project. Requires state highway funds be repaid from revenues of the turnpike project on which the state highway funds were expended.
Page 169, Line 15 thru Page 170, Line 19	Authorizes an RTA to negotiate and enter into agreements with public or private entities, including the United States and Mexico, and other states of the U.S. or Mexico, to develop turnpike projects. Allows the investment of public and private money, including debt and equity participation, to finance these functions. Specifies that an RTA may not incur a financial obligation on behalf of a private entity that constructs turnpikes and that an authority or a county in an RTA is not liable for any financial obligation of a turnpike project because of the participation of a private entity.
Page 170, Line 20 thru Page 171, Line 23	Authorizes a local governmental entity, other than a nonprofit corporation, to issue bonds or agree with an RTA to issue bonds or make payments to develop a turnpike project or any portion of a project. Allows the local entity to use revenue from any available source and to collect taxes to pay interest on bonds and to provide a sinking fund for the redemption of the bonds. Specifies that the term of any agreement between an RTA and local government entities may not exceed 40 years.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 171, Line 24 thru Page 172, Line 1	Allows an RTA to enter into any agreement necessary and convenient to achieve its purposes.
Page 172, Line 4	Authorizes RTAs to have access to criminal history record information maintained by the Department of Public Safety regarding RTA employees and applicants for employment. The language also provides for the confidentiality of this information.
Page 172, Line 18 thru Page 174, Line 12	Provides for the establishment of the North Texas Tollway Authority (NTTA) as a regional toll Authority consisting of Collin, Dallas, Denton, and Tarrant counties with the power to extend turnpike projects and to expand its jurisdiction only to specified counties that are adjacent to the counties that comprise NTTA. The membership of the initial Board of Directors of NTTA is three members appointed by the Governor, one member appointed from each of the counties of NTTA, and two members who are county judges of two of the counties of NTTA. Of the Governor's appointees, two must be from a county of the Authority and one must be from either Parker, Ellis, or Johnson County. The county judge members of the initial Board serve a one-year term, and at the end of their term, their seats are not refilled, reducing the Board from nine to seven members. Three members are appointed to one-year terms, with their successors appointed to staggered, two-year terms. The terms of the initial directors of NTTA begin on September 1, 1997.
Page 174, Line 13	Adds a requirement for the North Texas Tollway Authority to include and adequately fund a feasibility study for building the Trinity Parkway in southern Dallas County.
Page 174, Line 21	Adds language to allow a toll structure to be built within two miles of an intersection of a federal highway and a toll road in Harris County.
Page 174, Line 24 thru Page 175, Line 13	Adds language requiring TxDOT to give consideration to the character of land, including the impact on neighborhoods, schools, and projected future residential subdivisions along the proposed route or alternative routes for any authorized toll road inclusive of a freight rail line that is to be part of the state highway system.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) Enrolled Version	
Bill Reference	Bill Provision
Page 175, Line 14	Repeals the following sections in the existing Texas Turnpike Authority statute — separate Sunset provision for TTA; standard Sunset provisions regarding conflicts of interest for TTA employees, career ladders and merit pay for TTA employees, and a policy for equal employment opportunities within TTA; provision prohibiting contracts by a TTA director of employee; provision allowing TTA to sue and be sued; provision specifying the TTA expenses that may or may not be incurred; provision for travel expenses for TTA employees; provision requiring filing minutes, budgets, and reports with the Legislature and Governor; provision requiring relocation assistance for displaced property owners; provision specifying the type of expenses the Transportation Commission can incur involving turnpike projects; provision regarding the eligibility of a turnpike project to become part of the state highway system; and provision defining “Council of Government” because its replaced by metropolitan planning organizations.
Page 175, Line 19 thru Page 177, Line 2	Abolishes TTA and establishes the Texas Turnpike Authority Division of TxDOT. The North Texas Tollway Authority takes possession of all assets and assumes all obligations of TTA, and the rules adopted by TTA relating to the operation of its projects remain in effect as a rule of NTTA until superseded by an action by NTTA. TTA employees may decide whether to become an employee of NTTA or the Turnpike Division within TxDOT.
Page 177, Line 3 thru Page 179, Line 16	Requires NTTA to pay the Turnpike Division an amount to be determined through an audit of TTA. The sum is to be paid in three installments, with one-third due on December 31, 1997, one-third due on September 1, 1998, and the balance due on August 31, 1999. Interest accrues on the unpaid portion after December 31, 1997 at the same rate as the money would have earned if it had been deposited in the General Revenue Fund. The audit is to be conducted by the State Auditor, in consultation with the Comptroller, and is to be paid for by NTTA. The audit must identify all funds in the possession of TTA that belong to the Department’s Turnpike Division with the payment being the amount determined to be in excess of TTA’s bonding requirements. In addition, requires NTTA to transfer to the Department at least \$1.845 million from feasibility study funds committed for projects outside NTTA’s boundary for deposit in a special account in the General Revenue Fund. All remaining proceeds to pay for feasibility studies under contract as of January 31, 1997 are to be distributed to NTTA.
Page 179, Line 17 thru Page 180, Line 10	Provides that NTTA is a successor agency to TTA under the state Constitution and that any agreement between TTA and any federal, state, or local governmental entity relating to an asset, right, or obligation transferred to NTTA is binding as a successor to TTA.

TEXAS DEPARTMENT OF TRANSPORTATION S.B. 370 by Armbrister (Bosse) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 180, Line 11 thru Page 181, Line 2	Specifies that the changes in qualifications for members of the Transportation Commission and the Motor Vehicle Commission apply only to members appointed on or after September 1, 1997. The changes to members' qualifications do not prevent a person who serves before September 1, 1997 from being reappointed if that person meets the qualifications effective on that date.
Page 181, Line 3	Provides for staggering the terms for the six initial members of the Board of Directors for the Turnpike Division within TxDOT appointed by the Governor. Also, provides for the current Board of Directors of TTA to serve as the Board for this Division until a majority of members of the new Board have been appointed and qualified for office.
Page 181, Line 21 thru Page 182, Line 9	Adds language requiring TxDOT to remit to the Comptroller funds received as a result of the abolishment of TTA, including funds received as a result of the audit of TTA and the money received from the feasibility study fund. The money is to be deposited to the credit of a special account in the General Revenue Fund.
Page 182, Line 10	Establishes the effective date of the Act as September 1, 1997.
Page 182, Line 11	Emergency clause.

Texas Youth Commission

Texas Youth Commission

Final Action: Continue the Texas Youth Commission for 12 Years with Changes.

H.B. 2074 by Hightower (Brown)

Report prepared by Jay Schmidt

Major Provisions in the Final Sunset Bill

House Bill 2074 continues the Texas Youth Commission (TYC) for 12 years and implements other statutory changes recommended by the Sunset Commission. The bill did not, however, contain major changes to the state's juvenile justice system because many of the changes made during the 74th Legislature's overhaul of the system were only taking effect during the Sunset review. Instead, the bill reflects a more limited Sunset review of the agency, focusing on operations such as contracting procedures, special programming needs, and efforts to secure additional or alternative funding. The Legislature adopted all of the Sunset Commission's recommendations, except one that focused on reducing the number of youth committed to state custody while strengthening community-level prevention programs. The following material provides more information on the major provisions in the bill and the Sunset recommendation that was deleted from the bill.

Sunset Provisions

1. Continue the Texas Youth Commission.

The Legislature adopted the Sunset Commission recommendation to continue the Texas Youth Commission for the standard 12 years.

2. Ensure TYC continues to develop and maintain sound contracting practices.

The Legislature adopted the Sunset Commission recommendation requiring TYC to develop a performance-based contracting system for residential client services that establishes clearly defined goals, sanctions, and reporting requirements. Additionally, the provision requires the Commission to develop a formal program to monitor residential client services contracts for compliance with performance requirements and to evaluate cost information. This recommendation was consistent with broader legislative efforts, specifically the work

of the Joint General Investigating Committee, to improve state agency contracting procedures.

3. Maximize the use of Medicaid to reduce health care costs for youth in the juvenile justice system.

The Legislature adopted the Sunset Commission recommendation requiring TYC to use federal Medicaid funds for eligible youth in the juvenile justice system, where cost-effective, to reduce state health care costs. This recommendation will allow the state to provide additional services to youth in the juvenile justice system by maximizing federal funds without burdening limited state or local revenue sources.

Legislative Change

- 1. The Legislature removed the Sunset Commission recommendation for TYC, jointly with the Texas Juvenile Probation Commission, to establish county pilot programs to allow the pooling of state and local funds to provide services to youth in the juvenile justice system.**

The Legislature did not adopt the Sunset Commission recommendation for an alternative funding program for juvenile delinquents. The

recommendation would have authorized the use of TYC juvenile correctional funds by counties, through an innovative pilot program, to provide community-level juvenile delinquency prevention and intervention services. The goal of the pilot was to demonstrate the effectiveness and foresight of prevention programs in reducing the number of youth eventually committed to TYC and state costs. Participation in the pilot was to be voluntary and required approval of both TYC and the Texas Juvenile Probation Commission. The Legislature did not enact this recommendation primarily because of the uncertain fiscal impact that the pilot project would have had on TYC's budget.

Fiscal Impact

This legislation will not result in fiscal impact to the state.

Bill Summary

TEXAS YOUTH COMMISSION H.B. 2074 by Hightower (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 1, Line 10	Updates standard Sunset Commission language requiring appointments to the Board be made without regard to race, color, disability, sex, religion, age, or national origin.
Page 1, Line 14 thru Page 3, Line 6	Updates standard Sunset Commission language prohibiting Board members or their spouses and employees compensated at or above Group 17 in the General Appropriations Act or their spouses from being an officer or employee of a related Texas trade association. Prohibits registered lobbyists from serving as a member of the Board or from being employed as the Board or Commission's general counsel. Also defines Texas trade association.
Page 3, Line 9 thru Page 4, Line 11	Adds standard Sunset Commission language requiring a person appointed to the Board, to be eligible to take office, to complete at least one course of a training program. No longer requires that this training occur before being confirmed by the Senate. Also, entitles a person appointed to the Board to receive reimbursement for travel expenses for the training program as if they were a member of the Board.
Page 4, Line 14	Adds standard Sunset Commission language requiring the Governor to designate the Chairman of the Board.
Page 4, Line 23 thru Page 5, Line 2	Updates standard Sunset Commission language that defines grounds for removing a Board member and requires notification of the Board's Chairman, the Governor, and the Attorney General if knowledge that a potential ground for removal exists. Affirms that an action of the Board is valid even if it is taken when a ground for removal exists for one of the members.
Page 5, Line 8	Continues the Texas Youth Commission for 12 years.
Page 5, Line 12	Adds standard Sunset Commission language requiring the Commission to comply with state and federal program and facility accessibility laws and to develop a plan that describes how non-English speaking persons can be provided reasonable access to the Commission's programs.
Page 5, Line 20	Updates standard Sunset Commission language requiring the Commission to prepare an annual financial report that meets the reporting requirements in the General Appropriations Act.

TEXAS YOUTH COMMISSION H.B. 2074 by Hightower (Brown) Enrolled Version	
Bill Reference	Bill Provision
Page 6, Line 5	Updates standard Sunset Commission language requiring the Executive Director or a designee to inform its members and employees of the qualifications for office or employment and each person's responsibilities under the law.
Page 6, Line 16	Updates standard Sunset Commission language requiring the Board to clearly separate its policymaking responsibilities from the management responsibilities of the Executive Director and staff of the Commission.
Page 6, Line 22 thru Page 7, Line 2	Updates standard Sunset Commission language requiring the Executive Director or a designee to develop an intra-agency career ladder program that addresses mobility and advancement opportunities for employees within the Commission and requires intra-agency postings of job openings concurrently with any public posting.
Page 7, Line 5	Updates standard Sunset Commission language requiring the Executive Director or a designee to develop a system of annual performance evaluations based on documented employee performance and upon which merit salary increases must be based.
Page 7, Line 14 thru Page 8, Line 20	Updates standard Sunset Commission language replacing the term "guide lines" with the phrase "laws, rules, and regulations and instructions promulgated from those laws, rules, and regulations".
Page 8, Line 25 thru Page 10, Line 5	Updates and modifies standard Sunset Commission language requiring the Commission to maintain files on written complaints that the agency has the authority to resolve, excluding written complaints from a child receiving services from the Commission or the child's parent or guardian, and to quarterly notify the parties regarding the status of the complaint until disposition. Requires the Commission to maintain information about each written complaint filed with the Commission by a child receiving services from the Commission or the child's parent or guardian.
Page 10, Line 8	Updates standard Sunset Commission language requiring the Board to give the public reasonable opportunity to appear before it regarding issues under the jurisdiction of the Commission.
Page 10, Line 14 thru Page 11, Line 5	Requires the Commission to develop a performance-based contracting system that will evaluate private contractor performance and hold them accountable for the services delivered.
Page 11, Line 6	Requires the Commission, where cost-effective, to use federal Medicaid funds to provide health care for eligible youth.

TEXAS YOUTH COMMISSION H.B. 2074 by Hightower (Brown) <i>Enrolled Version</i>	
Bill Reference	Bill Provision
Page 11, Line 10	Repealer. Deleted existing standard Sunset Commission language for conflict of interest and moved language to Sec. 61.0121(b), Human Resources Code - (SECTION 2).
Page 11, Line 12	An instructional provision specifying that changes made related to the qualifications of persons appointed to the Board apply only to a member appointed on or after September 1, 1997.
Page 11, Line 23	Establishes the effective date of the Act as September 1, 1997.
Page 11, Line 24 thru Page 12, Line 1	Emergency clause.

Appendix

Appendix

Sunset Review Schedule for 1999

(25 agencies)

General Government

Emergency Communications, Advisory Commission on State Hospital Equipment Financing Council, Texas Human Rights, Commission on Incentive and Productivity Commission, Texas

Health and Human Services*

Aging, Texas Department on Blind, Texas Commission for the Cancer Council, Texas Childhood Intervention, Interagency Council on Early Children's Trust Fund of Texas Council Deaf and Hard of Hearing, Texas Commission for the Developmental Disabilities, Office for the Prevention of Developmental Disabilities, Texas Planning Council for Health and Human Services Commission, Texas Health, Texas Board and Department of Human Services, Texas Department of Mental Health and Mental Retardation, Texas Department of People with Disabilities, Governor's Committee on Rehabilitation Commission, Texas Rural Health Initiatives, Center for

Public Safety and Criminal Justice

Child Support Enforcement, Office of the Attorney General Correctional Managed Health Care Advisory Committee Criminal Justice, Texas Department and Board of Pardons and Parole, Board of Private Investigators and Private Security Agencies, Texas Board of Public Safety, Texas Department of

* The 75th Legislature assigned the Sunset Commission responsibility for conducting three studies in conjunction with its review of health and human service agencies for presentation to the 76th Legislature. House Bill 2119 requires the Commission to study whether the treatment programs of the Texas Commission on Alcohol and Drug Abuse should be transferred to the Texas Department of Mental Health and Mental Retardation and the Texas Department of Health. House Bill 2385 requires the Commission to study the research needs of health and human services programs and how best to provide the Legislature the information it needs. The General Appropriations Act (in Rider 7 to the Health and Human Services Commission) requires the Commission to study approaches to streamline and coordinate long-term care services and programs across the health and human service agencies under review.

