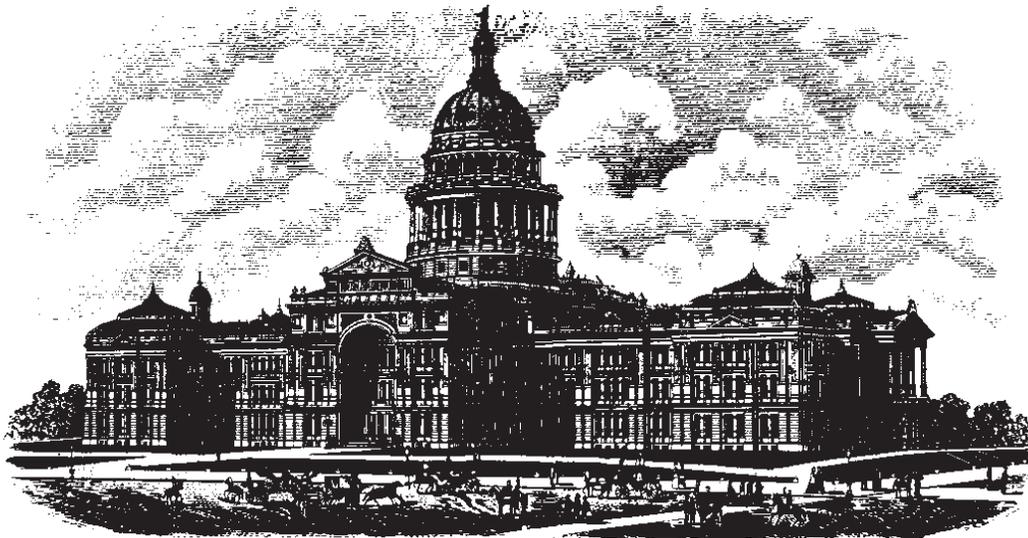


Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

E.E. Myers Architect

Summary of Sunset Legislation



76th Legislature

1999

SUNSET ADVISORY COMMISSION

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

Sunset Advisory Commission

Summary of Sunset Legislation
76th Legislature

1999

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Summary

Summary

The Sunset Advisory Commission made recommendations on 25 agencies to the 76th Texas Legislature. As in the past, the work of the Commission continued to be well received by the Legislature. With very few exceptions, the Commission's recommendations were included in the various Sunset bills passed by the Legislature. These bills resulted in the continuation of 22 agencies, the abolition of one agency, and the consolidation of two agencies.

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

- Establish the Health and Human Services Commission as the lead agency in managing the operational activities of all health and human services agencies.
- Authorize the Health and Human Services Commissioner to appoint or remove health and human service agency executive directors with the concurrence of the agency boards.
- Transfer the Texas Department on Aging to the Department of Human Services (DHS), creates the Aging Policy Council as an advisory committee, and renames DHS as the Department on Aging and Disability Services effective September 1, 2003.
- Require the Texas Rehabilitation Commission, Texas Commission for the Deaf and Hard of Hearing, and Interagency Council on Early Childhood Intervention to ensure the best value for the State by improving provider selection and contracting practices.
- Require the Texas Department of Health to develop and implement a blueprint to integrate and coordinate all agency operations.
- Require the Texas Department of Mental Health and Mental retardation to plan for and report on the future use of State Schools and State Hospitals.

- Continue the Child Support Enforcement Division at the Attorney General's Office for a two-year probationary period. Direct the Sunset Commission to perform a compliance review of the Division and report its findings to the 77th Legislature.
- Establish a process for civil commitment of persons judged to be sexually violent predators after they have served their sentence or have been discharged from a mental health facility.
- Strengthen the internal oversight of the Department of Public Safety, to reduce the need for exceptional legislative review, by creating an office of Audit and Review composed of the internal audit and inspection and planning functions.
- Clarify criminal history requirements that automatically exclude individuals from working in the private investigations and private security industry.
- Require the remittance of all 911 fee revenue to the State treasury instead of to 24 separate Council of Government regional accounts to give the Legislature greater control over how the funds are spent.

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 to state and federal funds will amount to approximately \$107.5 million for the next five years. The following charts and table summarizes the fiscal impact by agency and fund source.

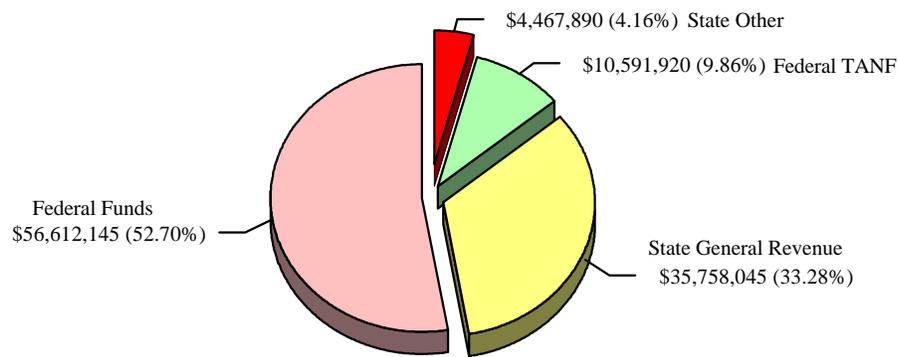
The Sunset Commission will monitor these agencies that have just gone through the Sunset process to see how well they have implemented the legislative directives in these Sunset bills. A report by the Sunset Commission during the next interim will detail the results of this implementation study. The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

Summary

The 76th Legislature also passed H.B. 2954 and other legislation that shape the Sunset review schedule for the next interim, the 2001 review cycle. The Sunset Commission has responsibility to review and make recommendations on 22 agencies or programs during the next 15 months. In addition, the Commission is required to conduct special reviews of the Child Support Enforcement Division of the Attorney General's Office, the Children's Trust Fund, and the Texas Office of

Prevention of Developmental Disabilities. Several agencies, most notably the Public Utility Commission and the Ethics Commission were moved to later review cycles. However, the General Services Commission and the Funeral Services Commission were added to the upcoming schedule. The appendix at the back of this report provides a complete listing of the upcoming review schedule.

Total Five-Year Net Savings/Gains by Funding Source



Fiscal Summary of Legislative Action - 76th Legislature					
Agency	Action	Five-Year Fiscal Impact		Bill Sponsor	
		State	Federal	Senate	House
Aging, Texas Department on	Consolidate	No Impact	No Impact	Zaffirini	Gray
Blind, Texas Commission for the	Continue	\$374,880	\$3,275,120	Zaffirini	Gray
Texas Cancer Council	Continue	No Impact	No Impact	Madla	Bosse
Child Support Enforcement, Office of the Attorney General	Continue	\$7,352,305	\$12,924,045	Harris	Bosse
Children's Trust Fund Council	Continue	No Impact	No Impact	Zaffirini	Gray
Correctional Managed Health Care Comm.	Continue	No Impact	No Impact	Brown	Gray
Criminal Justice, Texas Department of	Continue	(\$7,274,441)	No Impact	Brown	McCall
Deaf and Hard of Hearing, Texas Commission for	Continue	No Impact	No Impact	Harris	Gray
Developmental Disabilities, Texas Office for Prevention of	Consolidate	No Impact	No Impact	Zaffirini	McCall
Developmental Disabilities, Planning Council for	Continue	No Impact	No Impact	Zaffirini	McCall
Early Childhood Intervention, Interagency Council on	Continue	No Impact	\$12,270,000	Harris	Gray
Emergency Communications, Advisory Commission on State	Continue	\$4,467,890	No Impact	Madla	Bosse
Health and Human Services Commission	Continue	\$7,439,080	\$7,625,000	Brown	Gray
Health, Texas Department of	Continue	\$2,965,571	\$5,375,000	Brown	McCall
Hospital Equipment Financing Council	Abolish	No Impact	No Impact	Brown	McCall
Human Rights, Texas Commission on	Continue	No Impact	No Impact	Madla	Bosse
Human Services, Department of	Continue	No Impact	No Impact	Zaffirini	Bosse
Incentive and Productivity Commission, Texas	Continue	(\$1,151,860)	No Impact	Harris	Bosse
Mental Health and Mental Retardation, Texas Department of	Continue	No Impact	No Impact	Madla	Gray
Pardons and Paroles, Board of	Continue	No Impact	No Impact	Brown	McCall
People with Disabilities, Committee on	Continue	No Impact	No Impact	Zaffirini	McCall
Private Investigators and Private Security Agencies, Texas Board of	Continue	\$500,000	No Impact	Harris	Bosse
Public Safety, Department of	Continue	\$18,588,310	No Impact	Brown	Bosse
Rehabilitation Commission, Texas	Continue	\$6,964,200	\$25,734,900	Madla	Gray
Rural Health Initiatives, Center for	Continue	No Impact	No Impact	Madla	McCall
Fiscal Impact Totals		\$40,225,935	\$67,204,065		

Health and Human Services

Health and Human Services Commission

Staff Contact: Robert Morris

H.B. 2641 Gray (Zaffirini)

Summary

The Legislature created the Health and Human Services Commission (HHSC) in 1991 to enforce the coordinated delivery of health and human services (HHS). The Commission is charged with facilitating and enforcing coordinated planning and delivery of health and human services, including compliance with the coordinated strategic plan, co-location of services, integrated intake, and coordinated case management; establishing a federal health and human services funds management system and maximizing the availability of those funds; carrying out statewide health and human services needs surveys and forecasting; and performing independent outcome evaluations of selected HHS programs and activities. The Commission also sets overall policy direction for the State Medicaid program, manages interagency initiatives to maximize federal Medicaid dollars, and improves the quality of services by serving as the single State Medicaid agency.

House Bill 2641 continues the Health and Human Services Commission for eight years. The Legislature agreed with the Sunset Commission recommendation that HHSC should be continued as an agency only if given clear authority over key operational areas of health and human services agencies. Consequently, House Bill 2641 continues the Commission while significantly strengthening the Commission's authority to direct the operational and administrative functions of health and human services agencies. All of the Sunset Commission recommendations regarding HHSC were adopted by the Legislature. Taken together, these actions clearly direct and empower HHSC to create a streamlined, integrated system of business functions across the health and human services enterprise.

The Legislature, through House Bill 2641, adopted other provisions relating to the administration of the State's health and human services programs, including provisions related to Medicaid administration and to the collection of data regarding client transportation. Most importantly, House Bill 2641 calls for a moratorium on the planned roll-out of Medicaid managed care until the performance of existing managed care pilots has been assessed.

Major Bill Provisions

1. Continue the Health and Human Services Commission for Eight Years.
2. Increase HHSC's Operational Control Over Health and Human Services Programs.
3. Establish HHSC as the Lead Agency in Managing Federal Funds.
4. Strengthen HHSC's Oversight of Purchasing and Contracting.
5. Improve Information Systems Planning and Management.
6. Strengthen HHSC's Operational Control Over Medicaid Managed Care and Require the Health Care Information Council to Assist HHSC in Assessing the System's Performance.
7. Improve the Regional Management of Health and Human Services Agencies.
8. Improve Access to Information about Health and Human Services.
9. Strengthen the Role of the Guardianship Advisory Board to Plan and Coordinate Services.

Major Bill Provisions (cont.)

10. Move the Empowerment Zone and Enterprise Community Program to the Department of Economic Development.
11. Review Definitions of Abuse and Neglect in State Facilities.
12. Coordinate Mental Health and Substance Abuse Services and Planning.
13. Require HHSC to Study the Organizational Structure of Texas' Health-Related Regulatory Programs.
14. Provide a Framework for More Comprehensive, Community-Based Services.
15. Ensure Legislative Oversight of Changes to Texas' Health and Human Services System.
16. Establish a System to Collect Information about Client Transportation and Provide for Community Input.
17. Establish a Moratorium on Medicaid Managed Care Pilot Programs Until Outstanding Issues are Resolved.
18. Require the Health and Human Services Commission to Coordinate Certain Services Provided by the Texas Workforce Commission and Health and Human Services Agencies.

Major Bill Provisions

-
1. Continue the Health and Human Services Commission For Eight Years.
-

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

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

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

A. Authorize the HHSC Commissioner to manage the operations of the State's health and human services agencies in the following areas:

- federal funds management,
- Medicaid,
- information systems development,
- contracting and purchasing, and
- regional management.

B. Specify that HHS agency executive directors are hired by the HHS Commissioner, with the concurrence of the HHS agency's policy board, and the approval of the Governor.

C. Specify that the HHSC Commissioner can remove an agency director with the concurrence of the respective policy board.

D. Clarify the respective authority of the HHSC Commissioner and the HHS policy boards.

E. Require negotiated agreements regarding the performance of the HHSC Commissioner and each HHS agency's executive director, as well as an evaluation of the executive director's performance.

F. Provide HHSC with medical expertise by requiring HHSC to hire a medical director.

G. Form an advisory council of county and local government representatives to provide input into the policy and planning activities of HHSC.

The Legislature adopted the Sunset recommendation to give HHSC the authority to directly manage select key operations of the HHS agencies, and to focus HHSC's activities on areas of government where the greatest improvements can be made. The Commissioner will, with concurrence of the boards, employ the directors of all the HHS agencies. HHSC's expanded management authority includes the ability to direct and supervise the staff of health and human services agencies for the purpose of achieving improvements in key areas of agency operations, such as funds management. The bill requires HHSC to address the areas of federal funds management, Medicaid, and information systems development before addressing contracting, purchasing, and regional management.

The Legislature modified the Sunset Commission recommendations to clarify the relationship between the HHSC Commissioner and the policymaking boards of state health and human services agencies. HHS policymaking boards will continue to receive public input, adopt rules, and provide overall direction for the delivery of services. The role of the HHSC Commissioner and agency boards, as well as the performance expectations for the agency executive director, will be defined through a negotiated agreement between HHSC and each agency.

-
3. Establish the Commission as the Lead Agency in Managing Federal Funds.
-

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

- develop and implement a strategic plan that sets priorities across agencies for the use of federal funds in coordination with the coordinated strategic plan and strategic budget;
- review and approve state federal funding plans;
- estimate and track potential unspent funds, estimates of federal funds, and earned federal funds;
- ensure the State meets federal match and maintenance of effort requirements;
- coordinate and monitor the use of federal funds to ensure that funds are spent across agencies in the most cost-effective manner;
- transfer appropriated amounts, within limits set by the Legislature, to enhance receipt of federal funds and respond to client needs; and
- ensure that local units of government have access to complete and timely information about all sources of federal funds for health and human services programs, and that technical assistance is readily available to obtain federal funding.

B. Require HHSC to submit an annual report to the Legislature and the Governor on federal funding issues.

The Legislature adopted the Sunset recommendations that ensure HHSC has authority to oversee the receipt, planning for, and use of federal HHS funds. The requirement that HHSC serve as the State's lead agency in maximizing federal funds across all funding sources calls for increased participation by local units of government in shaping HHSC's planning and outreach efforts.

The annual report should identify ways to maximize the use of federal funds and detail strategies to improve federal funds management. In addition, the results of past activities to better manage federal funds should be reported.

4. Strengthen HHSC's Oversight of Purchasing and Contracting.

A. Require HHSC, with the assistance of the HHS agencies, to improve agency purchasing and contracting by:

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

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

C. Require HHSC to develop and implement a statewide plan to ensure that contractors and subcontractors are in compliance with the accessibility requirements of the Americans with Disabilities Act.

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

The Legislature adopted Sunset recommendations to strengthen the contracting system among HHS agencies. At present, the same contracting and purchasing tasks are performed by a large number of employees spread across all HHS agencies. Consolidation of some purchasing and contracting tasks such as contract monitoring, legal support, record keeping, and audit in one agency could lead to a reduction of staff or reassignment of staff to perform any new tasks resulting from these recommendations.

Because the contracting system is, for the most part, invisible to clients, well-planned administrative changes will not disrupt a client’s services.

5. Improve Information Systems Planning and Management.

- A. Designate HHSC as the authority responsible for strategic planning and oversight of the information resources projects of all HHS agencies.**
- B. The Commission is responsible for establishing the strategic direction for information resources across all health and human services agencies.**
- C. To support improved development of information resources, responsibilities of HHSC include:**
 - developing a coordinated HHS information resources strategic plan;
 - setting information resources priorities;
 - establishing and ensuring compliance with policies, procedures, and technical standards; and
 - reviewing and approving the Information Resources and Biennial Operating Plans of agencies under the authority of HHSC.
- D. Require HHSC to assume responsibility for the planning, development, and implementation of the Texas Integrated Enrollment and Services project.**

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

6. Strengthen HHSC’s Operational Control Over Medicaid Managed Care and Require the Health Care Information Council to Assist HHSC in Assessing the System’s Performance.

- A. Strengthen HHSC’s authority over Medicaid by providing it with clear authority over the Medicaid activities of all HHS agencies, including related contracts.**
- B. Require the Health Care Information Council, under the direction of HHSC, to examine the success of Medicaid managed care based on the criteria established by the Legislature, including:**
 - conducting an in-depth analysis of the success of the Medicaid managed care system;
 - determining the long-range needs for Medicaid managed care;
 - identifying critical problems in the Medicaid managed care system and recommending strategies to solve those problems;
 - assessing the cost-effectiveness of the Medicaid managed care system compared to the fee-for-service system, taking improvements in quality of care into consideration in the comparison; and
 - advising and assisting the Legislature in developing plans, programs, and proposed legislation for improving effectiveness of the Medicaid managed care system.
- C. Require HHSC to periodically report to HHSC and the Legislature on the continuing progress of the Medicaid managed care program.**

The Sunset recommendation to increase HHSC’s direct involvement in the operations of the Medicaid program was adopted by the Legislature. As the agency responsible for Medicaid managed care, HHSC will be held accountable for all components of the service delivery system. To be accountable, HHSC was given the clear authority to plan and direct the operations of the Medicaid program in each state agency. In particular, HHSC will be responsible for the development, procurement, management, and oversight of all Medicaid managed care contracts to ensure that contract provisions are consistent with the needs of the various populations who receive Medicaid services.

The Legislature adopted Sunset recommendations to involve HCIC in Medicaid evaluation. Attempts to collect useful information to assess the impact of Medicaid managed care initiatives have not been successful. The large number of agencies and contractors involved in

the delivery of managed care services, and the complex relationships between contractors, hinders problem solving and limits accountability. The Health Care Information Council is well suited to monitor the collection of managed care data, assess data accuracy, and judge whether program performance meets legislative objectives. The Legislature clarified that these tasks should be performed under the directions of HHSC.

7. Improve the Regional Management of Health and Human Services Agencies.

- A. **Specify that HHSC has clear authority to require HHS agencies to co-locate and consolidate support services.**
- B. **Require HHSC to assess the potential benefits and costs of consolidating support services across HHS agencies in both regional offices and in Austin, and develop a plan and schedule for co-locating offices and consolidating support services where clear benefits have been identified.**
- C. **HHSC must report the results of its assessment of support services and its proposed plan of action to the Legislature, the Governor, and the appropriate oversight committees by September 1, 2000.**
- D. **HHSC must develop and implement an annual business services plan for each HHS region that establishes business performance objectives across HHS agencies and measures agency efficiency and success in achieving those objectives.**

These Sunset Commission recommendations were adopted by the Legislature.

8. Improve Access to Information about Health and Human Services.

- A. **Require the Texas Information and Referral Network and the Records Management Interagency Coordinating Council to establish a single, consistent method of defining and organizing information about health and human services for**

public access, including presenting the information in telephone directories.

- B. **Require the Texas Information and Referral Network to include information regarding transportation services.**

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

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

- A. **Expand the Guardianship Advisory Board by adding three consumer or advocate members appointed by the HHSC Commissioner and a representative of the Department of Protective and Regulatory Services (DPRS), appointed by the PRS Executive Director.**
- B. **Specify that the consumer or advocate members should be people who advocate on behalf of, or in the interest of the elderly or people with mental health or mental retardation.**
- C. **Strengthen the role of the Guardianship Advisory Board by adding the responsibilities to:**
 - advise and assist HHSC and DPRS in the development of a statewide guardianship program;
 - review and comment on all state policies, procedures, and rules related to guardianship;
 - review and comment on guardianship services provided by local entities;
 - conduct an annual review of guardianship services provided throughout the State; and
 - recommend an approach to a statewide guardianship system to the Governor and the Legislature.

The appointment of three consumer or advocate members, as recommended by the Sunset Commission ensures that the views of clients and service providers are represented on the Board. Advocates for the eld-

erly or people with mental illness or mental retardation should have permanent representation on the Board due to their frequent need for guardians.

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

The Sunset recommendation adopted by the Legislature will require the Guardianship Advisory Board to take the lead in developing a statewide guardianship system and to review and comment on all state guardianship policies, procedures, and rules to ensure consistency and prevent duplication.

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

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

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

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

11. Review Definitions of Abuse and Neglect in State Facilities.

Create a working group with a representative from each agency conducting self-investigations of abuse and neglect to propose common definitions of abuse and neglect, minimum investigative standards, and uniform data collection procedures no later than September 1, 2000.

The Legislature adopted the Sunset Commission recommendation with modifications. Rather than require HHSC to adopt standard definitions by agency rule, the Legislature required a study of proposed definitions, with results to be reported to the Legislature for further action. Consistent definitions of abuse and neglect across all agencies will help to ensure that individuals in out-of-home placements are equally protected from abuse and neglect. Consistent definitions will provide a basis for the collection of accurate, useful data and allow state policymakers to reach conclusions about agency performance and the potential benefit of assigning all investigations to the Department of Protective and Regulatory Services. The Commission is required to report the results of the working group to the Governor and Legislature by October 1, 2000.

12. Coordinate Mental Health and Substance Abuse Services and Planning.

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

The Legislature adopted the Sunset recommendation to begin consolidating information and planning to coordinate the delivery of state mental health and substance abuse services.

HHSC will take the lead in ensuring that each agency offering mental health and substance abuse services reports the information necessary to complete the picture of the State's efforts in this area.

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

Require HHSC to consider consolidation and/or organizational alternatives for Texas Department of Health regulatory programs.

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

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

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

- E. Require HHSC to develop a system of blended funds from state health and human services agencies to allow local communities to customize services to fit the individual community needs.**

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

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

- A. Assign committees of the House and Senate that have jurisdiction over health and human services agencies the responsibility to monitor implementation of House Bill 2641 and recommend any suggested adjustments to the Commission's duties.**
- B. Specify the duties of health and human services agencies in supporting the oversight activities of the Legislature.**

The Legislature agreed with the Sunset Commission recommendation regarding the importance of legislative oversight of the changes created through House Bill 2641, but modified the Sunset recommendation to require that oversight be performed by standing House and Senate committees, rather than by a new, joint committee of the House and Senate.

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

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

16. Establish a System to Collect Information About Client Transportation and Provide for Community Input.

The Legislature added provisions to House Bill 2641 to establish a reporting system, administered by HHSC's Office of Community Transportation, to collect information about community transportation services. Using this information, the Office of Community Transportation is required to review transportation services and policies and make recommendations to the Governor and Legislature regarding the revision of rules and policies of each agency providing transportation services. In addition, House Bill 2641 authorizes HHSC to establish an Advisory Committee on Coordinated Transportation and requires HHSC and the Department of Transportation to coordinate their information collection activities through a memorandum of understanding.

17. Establish a Moratorium on Medicaid Managed Care Pilot Projects Until Outstanding Issues are Resolved.

- A. Require audits of contractors who assist in administering the Medicaid program.**
- B. Set a moratorium on Managed care pilot projects until outstanding issues are addressed.**
- C. Ensure that relevant local factors are considered in setting premium payment rates.**

The Legislature added a new provision to the Sunset bill requiring an external audit of Medicaid contractors who operate the Medicaid program. Similar language was recommended by the Sunset Commission and included in legislation relating to continuation of the Department of Health. In addition, the Legislature added new provisions that set a moratorium on managed care pilot projects and require HHSC to review and evaluate the Medicaid managed care system using specific criteria. Another new provision establishes guidelines for determining premium payment rates for managed care organizations.

18. Require HHSC to Coordinate Certain Services Provided by the Texas Workforce Commission and Health and Human Services Agencies.

The Legislature added a provision authorizing HHSC to coordinate the activities of any agency operating child care services programs, Temporary Assistance to Needy Families, and job training programs. Coordination will occur through a memorandum of understanding and HHSC is required to evaluate the performance and coordination of the Temporary Assistance to Needy Families and Job Training programs. This new coordination authority is limited, and does not place the Workforce Commission under the HHSC umbrella.

Fiscal Impact

Implementation of the provisions in the final Sunset bill are estimated to result in a five year savings to the General Revenue fund of \$7,439,080 and an additional savings to federal funds of \$7,625,000. These savings are offset by costs that result from provisions added to the bill by the Legislature that were not recommended by the Sunset Commission. Specifically, the provision establishing a moratorium on Medicaid manage care pilot projects will have a significant cost to general revenue of approximately \$56.8 million. However, the cost associated with this provision is not included in this fiscal summary because it passed as separate legislation.

Savings include \$100,000 in fiscal year 2000 and \$500,000 each subsequent year resulting from the cross-agency coordination of on-site and desk auditing of HHS agency subcontractors. The regional coordination of HHS agencies' support services is anticipated to reduce expenditures by \$400,000 each year beginning with fiscal year 2001. The consolidation of information technology planning and management will reduce expenditures by \$200,000 in fiscal year 2001 and \$1.0 million each subsequent year. Annual savings after the 2000-01 biennium result from projected changes in rate setting and Medicaid operations and contracting, totaling \$3.0 million. Consolidation of administrative functions as required in the bill should lead to an eventual net reduction in full-time employees.

Staff and other resources necessary for HHSC to perform the duties required by the bill, such as reviews, reports and studies, generally would be derived from existing resources and staffing within HHS agencies. The estimated costs of the bill assume \$130,000 would be required annually for the Health and Human Services Commission to employ a medical director. In addition, the State Auditor's Office estimates a cost of \$185,920 and 2.4 full-time employees in fiscal year 2000 to assess the procurement and contracting practices in the HHS agencies.

Five-Year Impact			
Fiscal Year	Probable (Costs)/Savings General Revenue Fund 0001	Probable (Costs)/Savings From Federal fund 0555	Change in Number of State Employees from FY 99
2000	(\$200,920)	(\$15,000)	3.4
2001	485,000	485,000	3.4
2002	2,385,000	2,385,000	3.4
2003	2,385,000	2,385,000	3.4
2004	2,385,000	2,385,000	3.4

Texas Department on Aging

Department of Aging and Disability Services

Staff Contact: John Hawkins

S.B. 374 Zaffirini (Gray)

Summary

Aging and disability services in the State of Texas are currently provided by as many as five different agencies - The Department of Human Services (DHS), Department of Health, Department of Mental Health and Mental Retardation, Texas Rehabilitation Commission (TRC), and the Department on Aging (TDoA). These agencies all administer support programs required by clients on a continuing basis to maintain a high quality of life and to function in society. Long-term care services are typically delivered in the community or other residential settings and in nursing facilities.

Senate Bill 374 contains recommendations of the Sunset Commission designed to reduce the number of agencies people have to contact to receive the array of long-term care services and to create a single focal point for the development of policy for the delivery of services. Although the original recommendation was to transfer these programs into a new agency, the final action consolidates long-term care services programs at the Department of Human Services to address concerns over the administrative costs of creating a new agency. Current eligibility requirements for services are not changed. The bill ensures the unique needs of the elderly will be met through the creation of an Aging Policy Council and the existing Area Agencies on Aging maintain their current role in the service delivery structure. Finally, the bill contains several requirements for administrative consolidation and service coordination between agencies, before the actual program transfer, that lay the groundwork for development of coordinated intake and standard assessment processes for clients at the local level.

Major Bill Provisions

Merge Long-Term Care Programs into a Single State Agency to Improve Service Delivery.

1. Create a long-term care agency through consolidation of the following programs:
 - the Deaf-Blind Multiple Disabilities, the Personal Attendant Services program, and the voucher payment pilot project program from TRC;
 - the Home and Community Support Services Agencies regulatory programs from the Department of Health;
 - the Medically Dependent Childrens Waiver Program from the Department of Health; and
 - all programs of the Department on Aging.
2. Create an Aging Policy Council as an advisory committee to the newly-created Department of Aging and Disability Services.

Major Bill Provisions (cont.)

3. Create a permanent working group of representatives from DHS and the Department of Mental Health and Mental Retardation to ensure coordination of services and planning for mental retardation services.
4. Continue the Department on Aging for four years and refocus the agency on its advocacy role and modify the composition of the TDoA Board.
5. Direct TDoA and DHS to reduce service duplication and fragmentation.
6. Direct HHSC to develop guidelines to implement blended funding initiatives.

Major Bill Provisions

Merge Long-Term Care Programs into a Single State Agency to Improve Service Delivery.

- 1. Create a long-term care agency through consolidation of the following programs at the Department of Human Services and rename the agency as the Department of Aging and Disability Services.**
 - × The Deaf-Blind Multiple Disabilities, the Personal Attendant Services program, and the voucher payment pilot project program from TRC, effective September 1, 1999.
 - × The Home and Community Support Services Agencies regulatory programs from the Texas Department of Health (TDH), effective September 1, 1999.
 - × The Medically Dependent Childrens Waiver Program from TDH, effective September 1, 2001.
 - × All programs of the Texas Department on Aging, effective September 1, 2003.
- 2. Create an Aging Policy Council as an advisory committee to the Department of Aging and Disability Services to advise the agency and to focus on aging policy, research, and planning.**
- 3. Create a permanent working group of representatives from DHS and the Department of Mental Health and Mental Retardation to ensure coordination of services and planning for mental retardation services, where appropriate, between agencies.**
- 4. Continue TDoA for four years and refocus the agency on its advocacy role. Modify the composition of the TDoA Board to include an expert in gerontology, a medical professional, a consumer advocate, and three members of the general public.**
- 5. Direct TDoA and DHS to reduce service duplication and fragmentation at the state and local levels.**

- 6. Direct HHSC to develop guidelines to implement blended funding initiatives for local access and service provision in communities that develop initiatives.**

The Legislature endorsed the Sunset Commission recommendation to merge programs from DHS, TDoA, TDH, and TRC into a single agency for the delivery of services. Rather than merging these programs into a new agency, the Legislature chose to transfer the programs into the Department of Human Services, avoiding the administrative cost of creating a new agency. The Legislature also modified the effective dates of the transfers to allow time to address administrative and service delivery transition issues related to the more complex programs, including TDoA programs and the Medically Dependent Childrens Waiver Program.

The bill includes the Sunset Commission recommendation to create an Aging Policy Council to focus on conducting research and advocacy efforts in areas of interest to all aging Texans and to serve as a resource for other state agencies that serve the elderly. Rather than creating the Council as an independent entity, the Legislature chose to have the Council serve in an advisory capacity to the Department of Aging and Disability Services. The legislation also specifies that the existing TDoA board members may continue to serve on the Aging Policy Council.

During the intervening period before the TDoA programs transfer to DHS, the Legislature included provisions in Senate Bill 374 that broaden the representation of the TDoA Board to refocus their advocacy role beyond the administration of the Older Americans Act and to provide expertise and advice to policymakers on the needs of the state's elderly population. The bill also directs TDoA and DHS to reduce service duplication and fragmentation at the state and local levels and directs HHSC to report on the success of these efforts.

Finally, the Legislature recognized the importance of local control in the organization of services at the regional level and included provisions that allow communities to submit proposals for locally integrated service delivery structures to the Health and Human Services Commission. The Commission must develop guidelines to implement blended funding initiatives between multiple agencies to support viable initiatives developed by communities.

Fiscal Impact

Implementing the provisions in the Sunset bill will result in no significant fiscal impact to the State. All funding and staff positions associated with programs identified in the bill would transfer to the appropriate agency, resulting in no additional cost. Once the transfers and consolidations are complete, the newly-created agency will provide for long-term fiscal savings. Reduced duplication of administrative activities and service delivery should allow for increased dollars for direct client services. This impact could not be estimated for this report.

Texas Commission for the Blind

Staff Contact: Chris Ninaud

H.B. 1400 Gray (Zaffirini)

Summary

The Legislature created the Texas Commission for the Blind (TCB) in 1931 to help prevent serious visual loss and to provide a variety of services to persons with visual impairments. These services ensure the blind can actively and independently participate in society. The Commission also operates the Criss Cole Rehabilitation Center, a 24-hour a day residential program that provides vocational and rehabilitation skills to blind clients, and administers the Business Enterprises Program, a federally-authorized program that provides management opportunities in the food services industry for persons who are blind.

House Bill 1400 continues TCB as an independent agency for 12 years. The Sunset bill requires the Commission to develop a framework for services to improve case management practices, successful client outcomes, and oversight of TCB counselors. The bill also improves agency contracting procedures, requires the evaluation of provider rates, requires providers of adaptive technology to train clients, and increases Medicaid reimbursements to the Children's Program.

The Legislature also added provisions to the Sunset bill that affect other aspects of TCB's operations. The bill changes the board composition to ensure majority representation by persons with blindness or visual impairments, and the inclusion of a family member of a person with a visual impairment. In addition, the Legislature required TCB to post agency reports and data on the Internet, established a trust fund in the Comptroller's office for the deposit of Business Enterprises Program retirement funds, made Children's Program client files confidential, and authorized TCB to perform criminal background checks on potential employees.

Major Bill Provisions

1. Develop Clearer Guidelines and Better Oversight of the Delivery of Services.
2. Improve TCB Contract Performance Measures and Monitoring.
3. Ensure Equipment Contracts Cover Client Training.
4. Develop an Improved Rate-Setting Methodology for Medical Services.
5. Maximize Medicaid Reimbursements for Children's Services.
6. Ensure the Commission Has a Majority of Members with Blindness or Visual Impairments.
7. Continue the Commission for 12 Years.

Major Bill Provisions

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

A. Require the Commission to develop, by rule, a framework for basic services delivered by TCB programs. This framework relates to, at a minimum:

- oversight and monitoring of service delivery,
- guidance to counselors on service delivery procedures,
- case management benchmarks for service delivery, and
- improved financial planning information.

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

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

The Legislature adopted the Sunset Commission recommendation to establish a framework for services and written guidelines for counselors to help eliminate reliance on “rules-of-thumb,” and improve client outcomes.

-
2. Improve TCB Contract Performance Measures and Monitoring.
-

A. Require TCB to include the following specific provisions in its service provider contracts:

- clearly defined and measurable program performance standards that directly relate to services provided;
- clearly defined sanctions or penalties for non-performance of any contractual obligations; and
- clearly specified accounting, reporting, and auditing requirements applicable to funds received under the contract.

B. Require TCB to include the following in contract performance monitoring:

- a risk assessment methodology to institute statewide monitoring of contract compliance of service providers, and
- tools to evaluate contractors based on clearly defined and measurable program performance objectives.

The Legislature adopted the Sunset Commission recommendation to strengthen outcome measures in provider contracts to hold contractors accountable for the best possible performance.

-
3. Ensure Equipment Contracts Cover Client Training.
-

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

The Legislature adopted the Sunset Commission recommendation to require client training in contracts with providers to help ensure successful outcomes for clients.

-
4. Develop an Improved Rate-Setting Methodology for Medical Services.
-

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

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

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

The Legislature adopted the Sunset Commission recommendation to adopt formal methods for establishing rates to help ensure the agency receives best value for medical procedures and treatments.

5. Maximize Medicaid Reimbursements for Children's Services.

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

B. Require the Commission to determine the income level that would trigger the required eligibility check. In verifying Medicaid eligibility, caseworkers shall:

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

The Legislature adopted the Sunset Commission recommendation to verify the Medicaid eligibility of clients served by the Children's Program to help maximize funding to expand services to more children.

6. Ensure the Commission Has a Majority of Members with Blindness or Visual Impairments.

Require the Commission to have a majority of persons with blindness or visual impairments, and require the inclusion of a family member of a person with a visual impairment.

The Legislature added a provision to increase representation by persons with blindness or visual impairments on the Commission to meet federal requirements for consumer control of the governing board.

7. Continue TCB for 12 Years.

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

Fiscal Impact

Implementation of the provisions in the final Sunset bill will result in a net positive impact to the General Revenue Fund and to federal funds for the biennium ending August 31, 2001. The provisions relating to increasing Medicaid reimbursements to the Children's Program will result in \$378,000 of additional federal dollars per year for services the agency currently pays for with state funding. The provisions relating to revising TCB rates paid to providers for medical services will result in an estimated savings totaling \$352,000 per year in state and federal funds, if the agency ensures that payments to providers do not exceed Medicare rates.

Five-Year Impact		
Fiscal Year	Savings to General Revenue Fund	Savings to Federal Funds
2000	\$74,976	\$655,024
2001	74,976	655,024
2002	74,976	655,024
2003	74,976	655,024
2004	74,976	655,024

Texas Cancer Council

Staff Contact: Erica Wissolik

H.B. 1033 Bosse (Madla)

Summary

The Legislature created the Texas Cancer Council (TCC) in 1985 to act as the State's leader in coordinating partnerships between cancer prevention, detection, and treatment agencies and organizations. TCC is responsible for developing, implementing, and promoting the *Texas Cancer Plan*, a comprehensive, statewide strategy for addressing Texas' growing challenge of cancer control. The Council is the coordinating link in Texas' network of cancer agencies, contracting with both public and private organizations to manage specific programs that achieve the goals and objectives of the *Texas Cancer Plan*.

House Bill 1033 continues TCC as an independent agency. The bill also restructures the Council's membership by requiring a more diverse representation of health care professionals and health care facilities to ensure a broader viewpoint in planning and grant making issues.

Major Bill Provisions

1. Restructure the Texas Cancer Council's Membership.
2. Continue the Texas Cancer Council for 12 Years.

Major Bill Provisions

1. Restructure the Council's Membership.

A. Restructure the Texas Cancer Council's membership by:

- specifying that three members be representatives of licensed health care professions, other than physicians;
- broadening the definition of the three members representing public or private hospitals that treat a significant number of cancer patients to include all licensed health care facilities that treat a significant number of cancer patients;
- removing the requirement that two of the members be members of the Texas Legislature;
- removing the Chair of the Texas Board of Human Services; and
- providing that the Chair of the Texas Board of Health serve as a non-voting member.

B. Require Council appointments to be made with an effort to include cancer survivors or family members of cancer victims.

The Legislature adopted the Sunset Commission's recommendation to restructure the Council's membership. The bill maintains the current size of the 16-member Council but removes the specific requirement that two members represent the Legislature and one member represent the Texas Department of Human Services. The bill also requires the Council's membership to include wider representation of health care professions and facilities, and specifies that when making appointments to the Council, efforts must be made to include cancer survivors or family members of cancer victims.

2. Continue the Council for 12 Years.

The Legislature adopted the Sunset Commission's recommendation to continue TCC with a Sunset date of 2011.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Children's Trust Fund of Texas Council

Staff Contact: Barbra Dorr

S.B. 351 Zaffirini (Gray)

Summary

The Legislature created the Children's Trust Fund (CTF) in 1985 to promote and provide opportunities so that Texas children can grow to responsible and productive adulthood, free of threats to their dignity, physical safety, and emotional well-being. The agency is responsible for providing grants to local communities to fund primary and secondary child abuse and neglect prevention programs and grants to fund public awareness campaigns.

Senate Bill 351 continues CTF as an independent agency. The bill also strengthens the agency's relationship with the Health and Human Services Commission by placing CTF under the HHSC umbrella. This will facilitate strategic planning and coordination between the agency and other health and human services agencies serving children.

Major Bill Provision

1. Continue the Children's Trust Fund for Eight Years and Increase Coordination with the Health and Human Services Commission.
-
- A. **Continue the Children's Trust Fund for eight years.**
 - B. **Designate the Children's Trust Fund as a health and human services agency.**

The Legislature modified the Sunset Commission's recommendation to continue the Children's Trust Fund by providing the agency with a Sunset date of 2007. The agency is also placed under the Health and Human Services Commission umbrella. The agency will remain in the same review cycle as all other health and human services agencies. Agencies are designated in the Health and Human Services Commission statute as health and human services agencies to facilitate coordinated budgeting and planning for the delivery of health and human services. This change includes CTF under the HHSC umbrella and facilitates coordination of resource allocation, strategic planning, and policy development between CTF and other health and human services agencies.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Texas Commission for the Deaf and Hard of Hearing

Staff Contact: Katrina Daniel

H.B. 1401 Gray (Harris)

Summary

The Texas Commission for the Deaf and Hard of Hearing is the State's primary agency to ensure services for the State's 1.7 million people who are deaf or hard of hearing. To provide these services, the Commission contracts with 23 Councils located throughout the state. The service in greatest demand is Communication Access, which provides interpreters to translate sign language to voice and voice into sign language. Communication Access includes tri-lingual interpretation, which allows people who understand Spanish and American Sign Language to interact in the English speaking community. The Commission also regulates people working as interpreters.

In addition to continuing the Commission for 12 years, House Bill 1401 repeals a statutorily established payment rate that has prevented the agency from negotiating the best rates for interpreter services. The bill also directs the Commission to improve tri-lingual interpretation services and to protect the confidentiality of consumers who request telecommunication device assistance.

Major Bill Provisions

1. Direct the Commission to Negotiate Best Value for Interpreter Services.
2. Expand the Commission's Tri-Lingual Interpretation Authority.
3. Protect the Confidentiality of People Who Seek Telecommunication Device Assistance.
4. Continue the Commission for 12 Years.

Major Bill Provisions

1. Direct the Commission to Negotiate Best Value for Interpreter Services.
-

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

The Legislature adopted the Sunset Commission recommendation to remove this provision and allow the agency to base payment for interpreter services on the level of service provided by its Councils. Removing the provision allows the agency to obtain the best value for interpreter services.

2. Expand the Commission's Tri-Lingual Interpretation Authority.
-

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

The Legislature adopted the Sunset Commission recommendation to give the Commission statutory authority to address the qualifications and training of tri-lingual interpreters. The tri-lingual taskforce will work

with interpreter training programs to increase the number of programs designed to train Spanish and English-speaking interpreters, ensure the curriculum is adequate, increase participation in these programs, and maximize the level of training for the interpreters.

3. Protect the Confidentiality of People Who Seek Telecommunication Device Assistance.
-

Prohibit the distribution of personal information about people who request telecommunication device assistance.

The Legislature added a provision to prevent the Commission from advertising, distributing, or publishing personal information about people who apply for telecommunication device assistance.

4. Continue the Commission for 12 Years.
-

The Legislature adopted the Sunset Commission recommendation to continue the Commission. A Sunset date of 2011 coincides with the Sunset review of other health and human services agencies.

Fiscal Impact

These provisions will enable the Commission to better perform its functions within existing resources. The anticipated savings cannot be estimated. However, the recommendation to require the agency to pay for communication access services according to interpreter skill level will result in some savings to the State, based on the number and skill level of interpreters in Texas. Further, improved contractor oversight will also result in a savings to the State.

Texas Planning Council for Developmental Disabilities

Staff Contact: Kristin Davis

H.B. 1610 McCall (Zaffirini)

Summary

The Texas Planning Council for Developmental Disabilities was created in 1971 to advocate for individuals with developmental disabilities. Funded through the federal Developmental Disabilities Act, the Council is responsible for providing grants to state and local organizations, developing a state plan, and educating the public and policymakers about disability issues. The Council is administratively attached to the Texas Rehabilitation Commission (TRC).

House Bill 1610 continues the Council as an independent agency. The bill also clarifies the Council's relationship to TRC, changes the name of the Council to the Texas Council for Developmental Disabilities, and permits the Governor to change the location of the Council from TRC to the Health and Human Services Commission or another state agency.

Major Bill Provision

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

The Legislature adopted the Sunset Commission's recommendation to continue the Council with a Sunset date of 2011. The Legislature also adopted the recommendation to clarify the relationship between the Council and TRC by strengthening the independence of the Council through granting it

rulemaking authority and the ability to approve and execute an annual budget. In addition, the bill limits the authority of TRC, or the designated state agency, over Council activities such as developing a state plan and awarding grants. These changes clarify the roles and responsibilities of each entity and brings the state into conformity with federal law.

The Legislature added two additional provisions to the bill that renames the Council the Texas Council for Developmental Disabilities and authorizes the Governor to move the Council to the Health and Human Services Commission, or another appropriate state agency, by October 1, 1999.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Texas Governor's Committee on People with Disabilities

Staff Contact: Ilan Levin

H.B. 1611 McCall (Zaffirini)

Summary

The Governor's Committee on People with Disabilities was created in 1949 to focus on the employment needs of people with disabilities. Over time, the Committee's scope has expanded to include the promotion of rights and opportunities for people with disabilities in all areas of life. The Committee collects and disseminates information on disability-related issues, promotes implementation of the federal Americans with Disabilities Act (ADA), and makes policy recommendations to the Governor and the Legislature regarding education, employment, health, and independence of persons with disabilities. In addition, the Committee supports a network of local volunteer committees that address issues such as parking, housing, and access on the local level.

House Bill 1611 continues the Governor's Committee on People with Disabilities for 12 years. The bill also clarifies the agency's mission and functions to reflect the current role of the Committee.

Major Bill Provision

1. Continue the Committee for 12 Years and Clarify its Mission and Functions.
 - A. **Continue the Governor's Committee on People with Disabilities for 12 years.**
 - B. **Clarify the Committee's mission and functions.**

The Legislature adopted the Sunset Commission's recommendation to continue the Governor's

Committee with a Sunset date of 2011. The Legislature also adopted the recommendation to clarify the law to accurately reflect the expanded role and mission of the Committee. These changes include consolidating multiple reporting requirements into one document and removing statutory requirements that are beyond the Committee's capabilities to eliminate unreasonable expectations. These changes will allow the Committee to serve as a central source of information for the Governor and the Legislature. The Committee will conduct planning and make recommendations on matters relating to the full participation of persons with disabilities in all aspects of life.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Texas Office for the Prevention of Developmental Disabilities

Staff Contact: Ilan Levin

H.B. 1151 McCall (Zaffirini)

Summary

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

House Bill 1151 continues the Texas Office for the Prevention of Developmental Disabilities for two years. The legislation administratively attaches the Office to the Texas Department of Mental Health and Mental Retardation (TDMHMR).

Major Bill Provisions

1. Administratively attach the Office to the Texas Department of Mental Health and Mental Retardation.
2. Continue the Texas Office for the Prevention of Developmental Disabilities for Two Years.

Major Bill Provisions

1. Administratively Attach the Office for the Prevention of Developmental Disabilities to the Texas Department of Mental Health and Mental Retardation.

This legislation includes the Sunset Commission recommendation requiring the Texas Department of Mental Health and Mental Retardation to:

- provide administrative assistance, services, and materials to the Office;
- accept, deposit, and disburse money made available to the Office;
- accept gifts and grants on behalf of the Office from any public or private entity;
- pay the salaries and benefits of the executive director and staff of the Office;
- reimburse the travel expenses and other actual and necessary expenses of the executive committee, executive director, and staff of the Office;

- apply for and receive on behalf of the Office any appropriations, gifts, or other money from the state or federal government or any other public or private entity;
- provide the Office with adequate computer equipment and support; and
- provide adequate office space.

The bill specifies that the Executive Director and staff of the Texas Office for the Prevention of Developmental Disabilities are employees of the Office and not employees of the Texas Department of Mental Health and Mental Retardation.

2. Continue the Texas Office for the Prevention of Developmental Disabilities for Two Years.

This legislation continues the Office for a two-year period. The Sunset Commission is directed to review the Office to determine whether it should continue to be administratively attached to TDMHMR or whether the functions of the Office should be transferred to TDMHMR.

Fiscal Impact

Although this legislation will have no direct fiscal impact to the State, it requires the Texas Department of Mental Health and Mental Retardation to provide administrative support to the Office. The Appropriations Act requires TDMHMR to expend, from existing funds, an amount not to exceed \$120,000 per year for salaries, benefits, travel expenses, and other support of the Office.

Interagency Council on Early Childhood Intervention

Staff Contact: John Hawkins

H.B. 1503 Gray (Harris)

Summary

The Legislature created the Interagency Council on Early Childhood Intervention (ECI) in 1981 to plan and implement early childhood intervention services for children who have, or are at risk of having, a developmental delay. ECI is responsible for the administration, supervision, and monitoring of a statewide comprehensive system to ensure that all children below the age of three who have developmental needs receive services. These services are delivered by a network of local providers.

House Bill 1503 improves the ability of ECI to carry out its mission of delivering early intervention services. The Legislature agreed with the recommendations of the Sunset Commission that sought to maximize the agency's resources to fund services to more children across the state. Specific recommendations include addressing improvements in the agency's provider selection and payment processes to ensure best value for the State. ECI is directed to select and renew provider contracts according to specific criteria such as past performance and to use an existing state automated system to manage the agency's business functions.

House Bill 1503 also directs the agency to work with the Health and Human Services Commission to maximize funding sources for early intervention services. To improve the agency's service delivery system, the bill directs the agency to ensure that local providers are able to meet current statutory objectives such as identifying all children under the age of three in need of early intervention services. The bill also requires the inclusion of parents in all decisions regarding the development of the treatment plan for their child, including the decision on the most appropriate setting for the delivery of services. In recognition of the need for the functions ECI provides, H.B. 1503 continues the agency for 12 years.

Major Bill Provisions

1. Ensure ECI's Provider Selection and Payment Processes Achieve the Best Value for the State.
2. Maximize Funding Sources for ECI Services.
3. Improve ECI's Service Delivery System.
4. Improve Coordination Between ECI and the Department of Protective and Regulatory Services.
5. Continue ECI for 12 Years.

Major Bill Provisions

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

A. Require ECI to select providers and renew their contracts on a best value basis. In determining best value, ECI must consider, at a minimum:

- past performance,
- quality of services,
- cost,
- ability of the bidder to maximize local and federal income,
- ability to comply with state and federal program requirements, and
- the availability of the contractor to deliver required services.

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

C. Require ECI to manage business functions, including purchasing of services, by using an existing state agency automated system where appropriate.

The Legislature adopted the Sunset Commission recommendation that ECI implement a series of changes designed to ensure that the State receives the highest quality services for the dollar. Evaluating providers based on specific criteria will promote competition and should immediately strengthen ECI's procurement process to focus on purchasing quality services at a reasonable price.

ECI, with the assistance of a consultant, will also evaluate systems used by other state agencies and select the system best suited to managing the agency's business functions.

2. Maximize Funding Sources for ECI Services.

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

The Legislature adopted the Sunset Commission recommendation requiring ECI and the Health and Human Services Commission study ways to maximize existing funding sources and seek new funding sources. The study will identify and address existing barriers within the ECI system to maximizing federal, local, and private income including organization structure, procurement policies, and contract and payment methods. Through this process, ECI can access more funding to provide more services to children. Increased funding could also be used to increase services to at-risk children and improve the providers' ability to locate children who are eligible for early intervention services.

3. Improve ECI's Service Delivery System.

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

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

B. Require ECI to include parents in decisions relating to the child's plan of care, including the decision regarding the most appropriate setting in which to deliver services.

C. Require ECI to report to the 77th Legislature on the achievements of its service delivery re-assessment effort.

The Legislature adopted the Sunset Commission recommendation that ECI re-evaluate its service delivery system with the goal of improving and increasing access to services. The Legislature added a requirement that parents be included in all decisions regarding the child's plan of care.

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

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

The Legislature adopted the Sunset Commission recommendation that ECI and DPRS improve coordination of services. Past problems have resulted from confusion over each agency's role when dealing

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

5. Continue ECI for 12 Years.

A Sunset date of 2011 will continue to include ECI in the same review cycle as other health and human services agencies.

Fiscal Impact

Implementation of the provisions contained in H.B. 1503 will result in a positive fiscal impact for the biennium ending August 31, 2001. The use of competitive procurement and maximization of Medicaid reimbursements for eligible ECI services should result in a total savings of \$2,464,000 in federal funds for each year of the biennium. The savings will be used to identify additional children who have, or are at risk of having, a developmental delay, particularly in underserved areas of the state. The agency would expend approximately \$50,000 in the first fiscal year as a one-time cost for consulting services to identify an appropriate automated system to manage and maintain records of client services.

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

Five-Year Impact	
Fiscal Year	Savings to Federal Funds
2000	\$2,414,000
2001	2,464,000
2002	2,464,000
2003	2,464,000
2004	2,464,000

Texas Department of Health

Staff Contact: John Hubbard

H.B. 2085 McCall (Brown)

Summary

The Texas Department of Health (TDH) is responsible for protecting and promoting the health of all Texans. The Department administers a wide-variety of programs to accomplish this mission. For example, TDH administers a number of programs designed to improve the health of the population as a whole, including epidemiology and disease surveillance. The Department also regulates a large number of health professions, such as EMS personnel, and health facilities, such as hospitals. In addition, TDH operates a large portion of the State's Medicaid program and the County indigent Health Care program to ensure that low-income Texans receive medical care.

House Bill 2085 continues TDH for 12 years and contains numerous statutory changes that will strengthen the Department's coordination and effectiveness of its activities. The Legislature agreed with the Sunset Commission's recommendations requiring TDH to develop a blueprint specifying methods to integrate and coordinate all agency operations, including Medicaid and non-Medicaid programs. The Legislature also agreed with the Sunset Commission's recommendations to increase public access to the rule-making process at the Department and to evaluate its regulatory programs, with the assistance of the State Auditor.

The Legislature also adopted several other provisions that affect aspects of the Department's operations. These provisions include changes affecting the regulation of hospital outpatient facilities, reimbursement for certain Medicaid facilities, and establishing regulation of 911 operators. Several provisions were also added relating to abortion facilities.

Major Bill Provisions

1. Require TDH to Develop a Comprehensive Analysis of its Organizational Structure and Operations.
2. Integrate Related Health Care Delivery Programs to Improve Services and Reduce Duplication.
3. Require TDH to Study the Impact of Medicaid Managed Care on Populations Served by the Department.
4. Require TDH to Conduct a Comprehensive Examination of its Regulatory Programs.
5. Designate TDH as the Sole Licensing Authority for Narcotic Treatment Programs in Texas.
6. Improve the Department's Methods for Soliciting Public Input During Rule Development.
7. Increase Oversight of Major Medicaid Contracts.
8. Reimburse Medicaid Providers Through Electronic Funds Transfer.
9. Maintain the Toxic Substances Coordinating Committee.
10. Transfer TDH Administrative Hearings to the State Office of Administrative Hearings.
11. Strengthen Regulation of Emergency Medical Services.

Major Bill Provisions (cont.)

12. Restructure the Licensure of Hospital Outpatient Facilities.
13. Define Fees for Private Mental Hospitals.
14. Establish Reimbursement Rates for Certain Medicaid Facilities.
15. Restructure the Regulation of Abortion Facilities.
16. Remove Mental Impairment as an Allowed Reason for Performing Abortions in an Unlicensed Facility.
17. Continue the Department for 12 Years.

Major Bill Provisions

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

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

- a statement of the mission, aim, and purpose of the agency's activities and how they relate to one another;
- a proposal of how programs, including data-related services, can be integrated to minimize overlap, increase administrative efficiencies, and simplify accessibility;
- a determination of whether each area of data collected by TDH is needed, and if so, whether it is collected, analyzed, and disseminated efficiently;
- an assessment of existing TDH services that evaluates the future need for those individual services;
- a method for including local and stakeholder input in identifying and assessing the health-related needs of the State and how programs and data services can be better coordinated and integrated;
- a comprehensive inventory of health-related information resources meeting criteria developed by the Department regarding usefulness and applicability to local health departments, TDH contractors, and health-related not-for-profit entities, private businesses, and community groups;
- an action plan to coordinate with federal, state, local, and private programs that provide services similar to those provided by TDH;
- a listing of state-mandated planning instruments developed by the Department along with a recommendation to remove the statutory requirements for those that are obsolete or redundant; and

- an assessment of the effectiveness of previous blueprints and why certain items within the blueprint have changed or been removed over time.

B. Require the blueprint to be submitted to the Governor, Lieutenant Governor, Speaker of the House, the Senate and House committees charged with overseeing TDH, and the Legislative Budget Board, by September 1 of each even-numbered year.

C. Require the blueprint to be posted on the TDH web site and copies made available for those persons or groups that do not have Internet access.

The Legislature adopted the Sunset recommendation requiring TDH to develop methods to integrate and coordinate all applicable agency operations. The blueprint would provide detail as to how related TDH services and activities from various programs can be accessed and integrated to provide a higher and more efficient level of service without overlap.

2. Integrate Related Health Care Delivery Programs to Improve Services and Reduce Duplication.

A. Require TDH to integrate health care delivery programs, including Medicaid and non-Medicaid programs, to the maximum extent possible. At a minimum, health care delivery integration should include:

- policy development and implementation; and
- contract administration — procurement, monitoring, and reimbursement.

B. Require TDH, within federal restrictions, to implement a pilot project that integrates all appropriate health care delivery programs, both Medicaid and non-Medicaid, in a managed care model.

C. Authorize TDH to seek waivers from federal requirements that restrict service integration.

D. To determine the best methods for integration, and minimize transitional impact, TDH will examine and report to the Legislature on the benefits of an integrated health care delivery system with regard to:

- client benefits,
- provider service improvements,
- administrative savings, and
- statutory changes that would remove impediments to an integrated delivery system.

E. TDH must submit the report required above as a part of the agency's blueprint.

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

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

These Sunset recommendations were adopted by the Legislature. This integration, in conjunction with the operational blueprint for the Department's broad array of services, will result in a more coordinated and cost-effective service delivery system. The report on integrating programs must include recommendations on statutory improvements that would remove impediments to an integrated health care delivery system.

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

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

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

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

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

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

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

C. Provide TDH with the authority to issue letters of reprimand for the program regulating Emergency Medical Service providers.

D. Provide the Advisory Board of Athletic Trainers and the Board of Licensure for Professional Medical Physicists with letters of reprimand and administrative penalty authority.

E. Require the Department to use electronic media, toll-free telephone numbers, and other appropriate methods to:

- increase access to information regarding final enforcement actions against professionals or facilities regulated by TDH, and

- disseminate trend information regarding enforcement action taken by TDH regulatory programs.

The Legislature adopted the Sunset Commission recommendation requiring TDH to examine all its regulatory policies and practices to identify problem areas and recommend solutions to the TDH Board and, if necessary the Legislature.

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

- A. Remove TCADA’s role in regulating narcotic treatment programs, and clarify that TDH is the sole state authority to regulate these programs.**
- B. The Board of Health should adopt rules for the regulation of narcotic treatment programs consistent with TCADA’s current rules.**

The Legislature adopted the Sunset Commission recommendation deleting references to Texas Commission on Alcohol and Drug Abuse’s (TCADA) licensing role. TDH would become the single state agency responsible for regulating narcotic treatment programs. TCADA will continue to maintain contractual oversight of the programs that it funds. To ensure that no oversight is lost for narcotic treatment programs, the Board of Health will review TCADA’s rules and, where applicable, adopt similar rules.

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

- A. Require TDH to establish a system for soliciting stakeholder input when developing rules.**
- B. TDH should establish uniform methods to solicit input during the development of rules.**

The Legislature adopted the Sunset Commission’s recommendations requiring TDH to ensure adequate input during rule development through efforts, such as creating lists of stakeholders by interest area and using these lists to mail notices.

7. Increase Oversight of Major Medicaid Contracts.

Require an annual external audit of all Medicaid contractors.

The Legislature modified the Sunset Commission recommendation requiring an external audit of the National Heritage Insurance Company. The legislative modification requires all Medicaid contractors to undergo external audits with the audit frequency based on risk.

8. Reimburse Medicaid Providers Through Electronic Funds Transfer.

The Legislature adopted the Sunset recommendation requiring TDH to use electronic funds transfer for all payments to Medicaid providers.

9. Maintain the Toxic Substances Coordinating Committee.

Repeal the expiration date for the Toxic Substances Coordinating Committee.

The Sunset Commission recommendation, adopted by the Legislature, will allow the Toxic Substances Coordinating Committee to continue promoting interagency coordination on the regulation of toxic substances and harmful physical agents.

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

The Legislature adopted the Sunset Commission recommendation transferring the Department’s APA hearing function to the State Office of Administrative Hearings. The Department will still determine how broader policy matters or recurring issues will be treated by administrative law judges.

11. Strengthen Regulation of
Emergency Medical Services.

- A. Establish a statutory advisory committee on emergency medical services.**
- B. Restructure the distribution of funding for emergency medical and trauma services.**
- C. Establish regulation of 911 operators.**
- D. Require emergency medical services testing in all areas of the state.**

The Sunset Commission recommendation to improve state regulation of emergency medical services (EMS) was adopted by the Legislature. Specifically, the bill establishes a Governor appointed advisory committee on emergency medical services in statute instead of by Department rule.

In addition to the Sunset recommendation, the Legislature added provisions related to the funding of emergency medical services and the regulation of 911 operators. The bill requires funds in the State's Emergency Medical Services and Trauma Care Fund to be distributed to local trauma service area regional advisory councils rather than counties. This change is to ensure the funds are used specifically for emergency services. In addition, the Board of Health is required to establish training and certification of 911 operators. The bill authorizes the Board of Health to adopt fees to cover the cost of regulation. Lastly, the bill requires TDH to provide EMS testing in all areas of the state to reduce the need for overnight stays or air travel.

12. Restructure the Licensure of
Hospital Outpatient Facilities.

The Legislature added a provision stipulating that a license issued to a hospital includes all outpatient facilities not separately licensed and located apart from the hospital.

13. Define Fees for Private Mental
Hospitals.

The Legislature added a provision requiring the Board of Health to adopt annual license and license renewal fees, set the maximum fees for hospital plan reviews,

set the minimum and maximum fees for field surveys, and require all fees to be deposited in the state treasury.

14. Establish Reimbursement Rates
for Certain Medicaid Facilities.

The Legislature added a provision requiring the Department, in adopting rules covering rates paid to federally qualified health centers and rural health clinics, to assure full reimbursement for Medicaid facilities.

15. Restructure the Regulation of
Abortion Facilities.

The Legislature added a provision requiring physicians' offices, which perform more than 300 abortions in a 12-month period, to be licensed as abortion facilities.

The Legislature also raised the penalty for operating an abortion facility without a license to a Class A misdemeanor from a Class C misdemeanor.

16. Remove Mental Impairment as an
Allowed Reason for Performing
Abortions in an Unlicensed
Facility.

The Legislature added a provision removing serious impairment of a patient's mental condition as a reason for performing an abortion in an unlicensed facility.

17. Continue the Department for 12
Years.

The Legislature adopted the Sunset Commission recommendation continuing the Department until September 1, 2011, to coincide with the Sunset review of other health and human services agencies.

Fiscal Impact

Implementation of the provisions of H.B. 2085 will result in a net positive fiscal impact to the General Revenue Fund for the biennium ending August 31, 2001. The net fiscal gain to the General Revenue Fund results primarily from savings derived from the development of a blueprint used to identify and eliminate programmatic duplication and inefficiencies, and from the electronic transfer of payments to Medicaid providers. Development of the blueprint would also result in savings to federal funds.

The provisions resulting in costs to the General Revenue Fund include establishing the Emergency Medical Services Advisory Council and the Council on Cardiovascular Disease and Stroke. Costs to the General Revenue Fund are also associated with the provisions related to needleless vaccination systems.

Despite these costs, the savings associated with the development of the blueprint and electronic payments to Medicaid providers will more than offset the total costs and result in a net savings to the General Revenue Fund. The following chart reflects the net fiscal implications of H.B. 2085 on both the General Revenue Fund and on federal funds for the first five years following the effective date of the bill.

Five-Year Impact			
Fiscal Year	Savings to General Revenue Fund	Savings to Federal Funds	Change in Number of State Employees from FY99
2000	\$298,585	\$1,075,000	2.3
2001	143,273	1,075,000	4.0
2002	174,571	1,075,000	4.0
2003	1,174,571	1,075,000	4.0
2004	1,174,571	1,075,000	4.0

Texas Department of Human Services

Staff Contact: John Hawkins

S.B. 369 Zaffirini (Bosse)

Summary

The Department of Human Services (DHS) is primarily responsible for determining eligibility and certifying that clients are eligible to access long-term care services, such as institutional and community care, and public assistance benefits, such as Temporary Assistance to Needy Families (TANF), Food Stamps, and Medicaid. The agency also funds family violence programs and regulates long-term care facilities such as nursing homes, institutional care facilities for the mentally retarded, adult day-care facilities, and personal care homes.

The Sunset Commission recommendations related to the Department of Human Services were included in Senate Bill 369, which was not passed by the Legislature. When the bill was heard by the House of Representatives, several controversial welfare reform proposals were added. However, due to technical problems with the bill, Senate Bill 369 was sent back to committee for reconsideration. Negotiations regarding the controversial proposals did not result in a compromise and Senate Bill 369 was left pending in the House Calendars Committee when the legislative session ended.

DHS was continued, however, until 2003 in separate legislation. This date will allow the next Sunset review of the agency to be done concurrently with the review of the Texas Workforce Commission, allowing a comprehensive review of the State's welfare reform efforts. The 2003 Sunset date is also consistent with the timeframe for transfer of the majority of the State's long-term care services programs to the Department of Human Services under Senate Bill 374, allowing the Sunset review to fine-tune aspects of those transfers as necessary. DHS Sunset recommendations related to long-term care were included in that legislation and include transferring administrative hearings responsibilities from DHS to the State Office of Administrative Hearings and the standard Sunset across-the-board recommendations related to long-term care services professional licensure.

Texas Department of Mental Health and Mental Retardation

Staff Contact: Larry Graham

S.B. 358 Madla (Gray)

Summary

The Texas Department of Mental Health and Mental Retardation (TDMHMR) is responsible for planning, policy development, and oversight of mental health and mental retardation services in the state. Created in 1965, TDMHMR provides services through 22 campus-based facilities and 10 state-operated community centers and funds and oversees locally-operated community services through performance contracts with 38 community centers across the state. These community MHMR centers are governed by local boards, usually appointed by county commissioner's courts, and provide or contract for services in the community.

Senate Bill 358 continues the Texas Department of Mental Health and Mental Retardation for 12 years and contains several statutory provisions to improve the management and operations of the Department. The Legislature agreed with the Sunset Commission recommendations to provide additional guidance to TDMHMR as both a provider of services at state-operated institutions and as an authority with oversight of mental health and mental retardation services throughout the state. In addition, the Legislature adopted Sunset recommendations that address the overlap of services provided by TDMHMR and other health and human services agencies.

The Legislature also adopted several provisions that affect other aspects of the Department's operations. Specifically, the Legislature transferred the licensing, surveying, and regulation of intermediate care facilities for the mentally retarded (ICF/MRs) from the Department of Human Services to TDMHMR, effective September 1, 2001. In addition, the Legislature gave TDMHMR statutory authority to complete the transition of its state-operated community services to local control, required the Department and the Texas Department of Housing and Community Affairs to implement a supported housing demonstration project for persons with mental illness, and removed term limits on board members from single county community MHMR centers.

Major Bill Provisions

1. Require the Department to Plan for and Report on the Future of State Hospitals and State Schools.
2. Establish a Local Authority Technical Advisory Committee to Provide a Forum for Local Authorities to Address Operational Issues.
3. Strengthen the Authority of TDMHMR and Texas Commission on Alcohol and Drug Abuse (TCADA) to Set Standards in Mental Health, Mental Retardation, and Substance Abuse Matters Affecting Other State Agencies.
4. Authorize TDMHMR and TCADA to Jointly Designate Local Behavioral Health Authorities.
5. Require Texas Rehabilitation Commission and TDMHMR to Reduce Duplication and Fragmentation of Employment Services.
6. Clarify the Grounds for Renewal of Community Services Contracts.
7. Clarify Revolving Door Provisions Placed on Former Employees of Community Centers.

Major Bill Provisions (cont.)

8. Transfer the Licensing, Surveying, and Regulation of ICF/MRs from the Department of Human Services to TDMHMR.
9. Authorize the Department to Transition Services to the Community.
10. Implement a Supported Housing Demonstration Program for Persons with Mental Illness.
11. Remove Term Limits for Board Members of Community Centers.
12. Continue TDMHMR for 12 Years.

Major Bill Provisions

-
1. Require the Department to Plan for and Report on the Future of State Hospitals and State Schools.
-
- A. **Require the Department, in the development of its strategic plan, to include the provision of services in, and policies for, state-operated institutions.**
 - B. **Require the Department to develop a report containing information and recommendations regarding the most efficient long-term use and management of the Department's state schools and state hospitals. The plan must:**
 - project future bed requirements for state schools and state hospitals;
 - document the methodology used to develop the projection of future bed requirements;
 - project maintenance costs for institutional facilities;
 - recommend strategies to maximize the use of institutional facilities; and
 - specify how each state school and state hospital will serve and support the communities and consumers in its service area, and fulfill statewide needs for specialized services.
 - C. **Require the Department to develop the plan with input from stakeholders, private providers, advocates, consumers, family members of consumers.**
 - D. **Require the Department to attach the facilities report to its legislative appropriation request for each biennium, as well as to the Governor, the Governor's Budget Office, the Lieutenant Governor, the Speaker of the House of Representatives, the Legislative Budget Board, and the Health and Human Services Commission.**
 - E. **Require the Department to clarify the process for admission to state schools by:**
 - establishing an ombudsman to help parents when requested services have been denied, and

- establishing criteria for use of campus-based facilities to ensure that a full continuum of services is available.

The Legislature adopted the Sunset Commission's recommendation to require TDMHMR to improve its long-range planning for its state-operated institutions. In developing the strategic plan, the Department shall solicit input from local mental health and mental retardation authorities, community representatives, consumers of services and their families.

The Legislature added several new requirements to the Sunset Commission's original recommendation. The first is a requirement for the Department to conduct two public meetings to receive comments from interested parties during the development of the report. The second directs the Department to consider the medical needs of the most medically fragile of its clients and to consider the provision of services to clients with severe and profound mental retardation in the development of the report. Finally, the bill requires the Department to develop a report that analyzes state and federally funded residential services for persons with mental retardation. The report will determine any disparity in cost and quality outcomes achieved between services provided in state-operated programs and comparable services provided by the private sector.

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2. Establish a Local Authority Technical Advisory Committee to Provide a Forum for Local Authorities to Address Operational Issues.
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Require the Commissioner to appoint a nine-member local authority advisory committee to:

- review rules and proposed rules relating to local authority operations;
- advise the Commissioner regarding evaluation and coordination of initiatives related to local authority operations;
- advise and assist the Department in developing a method of contracting with local authorities that will result in contracts that are flexible and responsive to the needs and services of local communities and the Department's performance expectations; and
- coordinate and monitor the activities of work groups whose actions may affect local authority operations.

The Legislature adopted the Sunset Commission recommendation to provide local authorities with a formal avenue of input into decisions that directly affect local authority responsibilities, with the modification that the committee only address issues of a technical and administrative nature, as opposed to policymaking. The committee will be composed of one member of the public and eight representatives of local authorities who must have expertise in the day-to-day operations of a local authority. The bill directs the Commissioner to ensure a balanced representation of different geographic regions, rural and urban counties, and single and multi-county authorities in appointing members to the committee. The committee is directed to report to the board on the committee's activities and recommendations at least once each fiscal quarter. The Department is directed to provide a written response to the committee recommendations.

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

The Legislature adopted the Sunset Commission recommendation to direct TDMHMR to develop model program standards for use by each state agency that provides or pays for mental health services, with the modification that TDMHMR also develop standards for mental retardation services. The Sunset bill also directs the Texas Commission on Alcohol and Drug Abuse (TCADA) to develop model program standards for substance abuse services. The standards must be designed to improve the consistency of mental health, mental retardation, and substance abuse services provided by or through a state agency, and are to be provided to state agencies involved in the delivery of these services as identified by the Health and Human Services Commission.

4. Authorize TDMHMR and TCADA to Jointly Designate Local Behavioral Health Authorities.

The Legislature adopted the Sunset Commission recommendation to combine, where appropriate, local administrative structures for the provision of mental

health and substance abuse services, with the modification that the language be kept permissive. In areas where TDMHMR and TCADA jointly designate a local behavioral health authority, each agency may delegate to the authority the responsibility for planning, policy development, coordination, resource allocation, and resource development for, and oversight of, mental health and chemical dependency services. The bill specifically authorizes a local mental health authority to apply for designation as a local behavioral health authority. The local behavioral health authority may be assigned the duty of providing a single point of entry for mental health and chemical dependency services, creating a "no wrong door" approach for consumers to access services.

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

The Legislature adopted the Sunset Commission recommendation to encourage TDMHMR and the Texas Rehabilitation Commission (TRC) to continue their efforts to coordinate services for overlapping client populations. Specifically, the bill directs TDMHMR to enter into an agreement with TRC that defines each agency's role and responsibility for shared client populations and establish methods to prevent the duplication and fragmentation of employment services provided by the agencies.

6. Clarify the Grounds for Renewal of Community Services Contracts.

The Legislature adopted the Sunset Commission recommendation to eliminate existing ambiguous criteria for contract renewal. Specifically, the Sunset bill provides that a mental health or mental retardation authority may renew the contract only if the contract meets general state contracting guidelines that require local authorities to consider best value when considering contract renewals.

7. Clarify Revolving Door Provisions on Former Employees of Community Centers.

The Legislature adopted the Sunset Commission recommendation to change the revolving door provisions for former community center employees to allow community MHMR centers to fully implement a system that meets the goals expressed by the Legislature. Specifically, the Sunset bill prohibits former community center employees from bidding on a contract they designed, but allows them to provide similar services within their former program areas. This change will make the revolving door provisions for former community center employees conform to the State's general revolving door provisions.

8. Transfer the Licensing, Surveying, and Regulation of ICF/MRs from the Department of Human Services to TDMHMR.

The Legislature authorized the transfer of the licensing, surveying, and regulation of ICF/MRs from the Department of Human Services (DHS) to TDMHMR, effective September 1, 2001. The bill also directs the Commissioner of Health and Human Services to appoint an advisory committee composed of nine members: four members representing residents, families, and advocates; three members representing providers; one ex-officio nonvoting member representing DHS; and one ex-officio nonvoting members representing TDMHMR. The advisory committee is directed to study the transfer and issue a report with its recommendations on October 1, 2000. Unless the advisory committee finds that the transfer is not in the best interests of residents, the transfer will take place September 1, 2001.

9. Authorize the Department to Transition Services to the Community.

The Legislature granted the Department authority to transition operations of, and services provided at, the Beaumont, Amarillo, and Laredo State Centers to an existing or newly created community center. The transfer of services at the Beaumont and Laredo State Cen-

ters are subject to certain requirements and the approval of the Department. These transitions are part of the Department's long-standing policy to shift the provision of community based services from state to local control.

10. Implement a Supported Housing Demonstration Program for Persons with Mental Illness.

The Legislature instructed TDMHMR and the Texas Department of Housing and Community Affairs to implement a demonstration program for supported housing services to individuals with mental illness living in personal care facilities. The bill requires a report to the Governor, Lieutenant Governor, and the Speaker of the House of Representatives on or before January 15, 2001.

11. Remove Term Limits for Board Members of Community Centers.

The Legislature removed the prohibition on a person serving on a board of a community mental health and mental retardation center that serves one county from serving more than four consecutive and complete two-year terms.

12. Continue TDMHMR for 12 Years.

The Legislature adopted the Sunset Commission recommendation to continue TDMHMR. The agency's Sunset date of 2011 would maintain the link between the review of TDMHMR and other health and human services agencies.

Fiscal Impact

Implementation of the provisions in the Sunset bill will have a long-range positive fiscal impact. Increased long-range planning for facilities will result in a better use of future resources. The bill has no cost to the State during the next biennium. The provision requiring the Department and the Texas Department of Housing and Community Affairs to implement a demonstration program for supported housing services will have a cost over the biennium. The agencies will fund the program using existing resources. Other provisions of the Sunset bill have no fiscal impact to the State.

Texas Rehabilitation Commission

Staff Contact: Larry Graham

H.B. 1402 Gray (Zaffirini)

Summary

The Texas Rehabilitation Commission (TRC) is the State's primary authority for the rehabilitation of people with disabilities, except for people with vision impairments, who are served by the Texas Commission for the Blind. TRC's primary emphasis is on vocational rehabilitation and helping persons with physical or mental disabilities prepare for, find, and maintain employment. In addition, TRC operates other programs that assist persons with disabilities who need more intensive support to obtain or maintain employment. Other TRC programs are not employment related and instead focus on increasing the ability of persons with severe disabilities to live more independently in their home or community. In addition to rehabilitation programs, TRC is responsible for determining initial eligibility for Social Security disability benefits.

House Bill 1402 continues the Texas Rehabilitation Commission for 12 years and contains several statutory changes to increase the effectiveness of the service delivery system, strengthen TRC's financial accountability, and clarify the policymaking role of the TRC Board. The Legislature agreed with the Sunset Commission recommendations to improve TRC's program operations, particularly in the Vocational Rehabilitation (VR) program, which accounts for 60 percent of the agency's budget.

Major Bill Provisions

1. Provide Better Guidance and Monitoring of TRC Counselors.
2. Improve Vocational Rehabilitation Services to Students With Disabilities.
3. Coordinate Employment Services to People with Disabilities through TRC, TDMHMR, and TWC.
4. Strengthen Standards for Approving Medical Services for Clients.
5. Develop Rate-Setting Methodology with Public Input and Tie to Established Rates for Medical and Health Care Services.
6. Reduce Purchasing Costs by Ensuring Compliance with Best Value Procurement Practices.
7. Clarify the Powers and Duties of the TRC Board and Commissioner.
8. Require TRC to Post Agency Reports and Performance Data on the Internet.
9. Continue the Texas Rehabilitation Commission for 12 Years.

Major Bill Provisions

1. Provide Better Guidance and Monitoring of TRC Counselors.

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

- how the service delivery system is organized;
- requirements for determining eligibility;
- requirements for rehabilitation planning;
- the types of services provided through vocational rehabilitation;
- requirements for client participation and comparable benefits; and
- an annual assessment of the effectiveness of the State's Vocational Rehabilitation program.

B. Require the Commission to establish, by rule, requirements for agency monitoring and oversight of vocational rehabilitation counselor performance and decision making.

C. Require the Commission to provide guidance in key areas related to counselor performance, including:

- guidelines for selecting vocational objectives according to the client's skills, experience, and knowledge;
- methods to ensure documentation of each client's impediment to employment;
- guidelines for selecting rehabilitation services that are reasonable and necessary to achieve the vocational objective;
- benchmarks for measuring client progress toward the employment outcome; and
- criteria for determining eligibility for employed applicants.

The Legislature adopted the Sunset Commission recommendation to improve TRC's service delivery system by providing statutory guidance as to how TRC should oversee its Vocational Rehabilitation program.

Specifically, the bill requires TRC to establish a time frame for evaluating client progress and participation that clearly defines eligibility criteria for counselors, ensures documentation of key aspects of the rehabilitation process, and incorporates decision-making criteria in client orientation materials used to set client expectations.

2. Improve Vocational Rehabilitation Services to Students with Disabilities.

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

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

The Legislature adopted the Sunset Commission recommendation to define and expand TRC's current efforts in the area of transition planning. The bill requires TRC to develop clear objectives for serving students with disabilities and methods for meeting those objectives. This change will assist students in leading more independent lives and save funds that might otherwise be spent to support these students later in life.

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

A. Require TRC and TDMHMR to reduce duplication and fragmentation of employment services by:

- defining each agency's roles and responsibilities for shared client populations, and
- requiring TRC to target people who are not currently served by TDMHMR or another agency.

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

The Legislature adopted the Sunset Commission recommendation to clarify the responsibilities of TRC and TDMHMR in the provision of employment services to people with disabilities. This change will ensure that TRC and TDMHMR define their roles and responsibilities for shared populations, outline ways to avoid duplication, and work to target people with disabilities for whom needed services are not available.

The Legislature also adopted the Sunset Commission recommendation to clarify the responsibilities of TRC and Texas Workforce Commission (TWC) in the provision of employment services to people with disabilities. This change will help mainstream people with disabilities into TWC's general programs and reserve TRC's services for persons with more specialized needs.

4. Strengthen Standards for Approving Medical Services for Clients.

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

The Legislature adopted the Sunset Commission recommendation to bring the agency in line with common best practices used by the health care industry. These changes strengthen TRC's decision process regarding the funding of medical and health care services and complex and invasive medical procedures. In addition, the bill requires TRC to manage the risk of liability that results from its medical and health care services funding decisions and to develop a plan to minimize those risks.

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

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

The Legislature adopted the Sunset Commission recommendation to fundamentally change TRC's method for establishing rates paid for services. The bill requires TRC to rely on established Medicaid and Medicare rates, which are generally lower than TRC rates, to set a base for its own rates. If TRC's rate exceeds the Medicare or Medicaid rate, TRC must document the reasons for the higher rate. These changes ensure best value in the use of funds for client services.

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

Require TRC to implement agency-wide procurement procedures to:

- comply with statutory requirements for best value purchasing of client services;
- document that a best value review of vendors has occurred and the reason for selecting a vendor;
- negotiate price discounts with high-volume vendors;

- consolidate purchases with other agencies, including the Texas Department of Health and General Services Commission, to achieve best value; and
- provide effective public notification to potential vendors of planned TRC purchases.

The Legislature adopted the Sunset Commission recommendation to ensure that TRC complies with existing best value purchasing requirements when buying services for clients. These changes require TRC to develop a competitive, formal, documented, and auditable process for choosing vendors. A best value approach to purchasing requires TRC to document why vendors are selected, but still permits client choice to influence the decision.

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

The Legislature adopted the Sunset Commission recommendation to clearly define the respective responsibilities of the TRC Board, the Commissioner, and the staff. Specifically, the bill gives the Board the responsibility to adopt rules that guide each of the agency's major responsibilities, clarifies that the powers and duties assigned to the Commissioner are subject to Board approval, and requires any delegation of the Board's authority to be adopted by the Board in a public meeting.

The Legislature also adopted the Sunset Commission recommendation to ensure that the TRC advisory committees have a direct link to the policy making body, while continuing to work with the Commissioner and staff as appropriate. The bill requires the TRC Board to re-adopt its rules to ensure that all of its advisory committees report to the Board by January 2000.

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

The Legislature adopted the Sunset Commission recommendation to ensure that consumers and the general public have access to information concerning TRC operations by requiring the agency to post pertinent information, such as agency reports and performance data, on the Internet.

9. Continue the Texas Rehabilitation Commission for 12 Years.

The Legislature adopted the Sunset Commission recommendation to continue TRC. A Sunset date of 2011 will maintain the link between the review of TRC and other health and human services agencies.

Fiscal Impact

Implementation of House Bill 1402 will change the operation of TRC's Vocational Rehabilitation program. This program is funded by a combination of General Revenue funds and federal funds. The changes will result in a net positive impact to the General Revenue Fund and to federal funds for the biennium ending August 31, 2001. The net fiscal gain to the General Revenue Fund results from a revenue gain of \$915,900 in fiscal year 2000 and increases to \$1,512,000 per year for fiscal years 2001-2004. The gain to federal funds is \$3.3 million in fiscal year 2000 and increases to \$5.5 million beginning in fiscal year 2001. The savings come from recommendations to improve the operation of the Commission's Vocational Rehabilitation program. Specifically, the savings come from provisions requiring TRC to meet health care industry quality control standards in the approval of medical services for clients, to improve agency-wide procurement practices, and to adopt rules and standards in rate setting.

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

Five-Year Impact		
Fiscal Year	Gain to General Revenue Fund	Gain to Federal Funds
2000	\$915,900	\$3,384,100
2001	1,512,300	5,587,700
2002	1,512,300	5,587,700
2003	1,512,300	5,587,700
2004	1,512,300	5,587,700

Center for Rural Health Initiatives

Staff Contact: Michael Johnson

S.B. 354 Madla (McCall)

Summary

In 1989, the Legislature created the Center for Rural Health Initiatives (Center) to assist rural communities in maintaining access to health care services for its citizens. The Center accomplishes its mission by providing scholarships and loans that assist communities in recruiting and retaining health professionals. In addition, the Center promotes telemedicine and distance learning to increase the availability of health care information for health professionals in rural areas.

Senate Bill 354 continues the Center for Rural Health Initiatives for 12 years. The bill restructures the composition of the Center's Executive Committee to ensure that rural citizens have a greater voice in agency policymaking and programs. In addition to restructuring the Executive Committee, the bill requires the Center to work with state and federal agencies in developing a rural health workplan that meets the health needs of rural communities. The Legislature also adopted a provision that requires the Center to study the need of establishing a visiting physician program.

Major Bill Provisions

1. Restructure the Center's Executive Committee.
2. Require the Center to Develop a Comprehensive Rural Health Work Plan for Helping Rural Communities Maintain Access to Health Care Services.
3. Require the Center to Study the Need for Establishing a Visiting Physician Program that Provides Temporary Relief to Rural Physicians.
4. Improve the Center's Administrative Functions.
5. Continue the Center for 12 Years.

Major Bill Provisions

1. Restructure the Center's Executive Committee.

The Legislature adopted the Sunset Commission recommendation to restructure the Center's Executive Committee by:

- specifying that the Governor shall make all appointments to the Executive Committee,
- removing the requirement for specific positions to represent certain professions,
- requiring at least six members to be selected from the list of health professions currently listed in statute,
- requiring three members to be locally-elected officials or have significant business expertise,
- requiring the majority of the Executive Committee membership to work or reside in counties with a population of 50,000 or less, and
- adding a physician assistant to the list of health professions the Governor must choose from when appointing members to the Executive Committee.

The Legislature added a provision that permits Executive Committee members, other than the presiding officer, to call regular or special meetings. The request for the meeting must be submitted in writing by three members of the Executive Committee.

2. Require the Center to Develop a Comprehensive Rural Health Work Plan for Helping Rural Communities Maintain Access to Health Care Services.

Require the Center to develop a comprehensive rural health work plan. The work plan must include the following elements:

- the mission, goals, and objectives of how the Center will work to assist rural communities in meeting rural health needs;

- methods for the State to effectively and creatively address unmet health care needs of rural communities;
- coordination of administration and service delivery with federal, state, and local public and private programs that provide similar services; and
- the Center's priorities for accomplishing the objectives of the plan.

The Legislature adopted the Sunset Commission recommendation requiring the Center to improve its planning and coordination of health care services with health and human services agencies. The rural health work plan provides a forum to communicate the mission and goals of the Center, to determine the objectives for rural health care delivery, and to recommend statewide policy in key areas. Developing the plan will require the Center to work jointly with the Texas Department of Health, other health and human services agencies, rural communities, universities, and health care providers.

3. Require the Center to Study the Need for Establishing a Visiting Physician Program that Provides Temporary Relief to Rural Physicians.

The Legislature added a provision that requires the Center to conduct a study to assess the need for establishing a visiting physician program to provide temporary relief to rural physicians. The Center is required to work with public medical schools, health science centers, professional physician associations, and practicing rural physicians when conducting the study.

4. Improve the Center's Administrative Functions.

The Legislature adopted the Sunset Commission recommendation to require the Center's Executive Committee to enter into a formal agreement with TDH for staff and administrative support services necessary to maintain the functions of the Center. This change requires the Center to work with TDH to improve the Center's administrative function.

5. Continue the Center for 12 Years.

The Legislature adopted the Sunset Commission recommendation to continue the Center for Rural Health Initiatives for 12 years.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Office of the Attorney General
Child Support Division

Office of the Attorney General - Child Support Division

Staff Contact: Ken Levine

S.B. 368 Harris (Bosse)

Summary

The Office of the Attorney General (OAG) is designated in statute as the State's Title IV-D agency, and administers the State's child support enforcement program under Title IV-D of the Social Security Act. The OAG's Child Support Division (Division) collects and distributes child support payments primarily for families on, or formerly on, welfare. Currently, the Division has approximately 1.14 million cases. Major activities include locating absent parents to establish or enforce payment of child support, establishing paternity when necessary to obtain court orders for child support, establishing child support in court and beginning collection proceedings through employer wage withholding or direct payments to the Division, and taking enforcement action when non-payment of child support occurs.

Senate Bill 368 primarily contains recommendations of the Sunset Commission designed to enhance the Division's ability to collect child support and ensure payments quickly get to the children and families that need them. The bill also addresses serious problems that led to questionable performance of the child support system. In addition to the Sunset recommendations, the bill enacts statutory changes to further implement Federal welfare reform legislation – the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (PRWORA.) As a result, the bill contains several provisions to ensure compliance with Federal law and enable federal funds to continue flowing to operate the child support program.

Major Bill Provisions

1. Retain the Child Support Program in the Office of the Attorney General (OAG) for a Two-Year Probationary Period.
2. Mandate that State Agencies Involved with the Child Support Program Participate in the Development of a New Interagency Partnership Strategy.
3. Establish a County and Judicial Work Group to be Involved in the Development of the Division's Child Support Programs.
4. Report to the Legislature on the Progress and Impact of Privatization Initiatives.
5. Establish an Information Resources Steering Committee.
6. Require the Division and the Department of Human Services to Enter into an Interagency Agreement Regarding TANF Sanctions and Timeliness and Data Exchange Standards.
7. Require the Division to Evaluate and Report on the Use and Effectiveness of all Tools Available to Enforce Child Support.
8. Provide that a Man who Signs a Paternity Acknowledgment is Considered to be the Legal Father for Child Support Purposes without an Additional Court-Established Paternity Order.

Major Bill Provisions (cont.)

9. Require the Division to Evaluate Alternative Sources of Revenue.
10. Require the Division to Develop an Ombudsman Program to Improve Resolution of Service Complaints.
11. Require a Toll-Free Customer Service Line for Employers.
12. Allow Orders of a Child Support Court Master, other than Enforcement by Contempt or Immediate Incarceration, to be Valid without Ratification by the Referring Court.
13. Require the Presiding Judges and the Office of Court Administration to Develop a Plan to Improve the Quality and Accountability of Court Masters.
14. Add Language to Implement the Federally-Required State Disbursement Unit (SDU).
15. Remove the Option for Jury Trials in Paternity Establishment Cases, to Comply with Federal Law.

Major Bill Provisions

1. Retain the Child Support Program in the Office of the Attorney General (OAG) for a Two-Year Probationary Period.
-

A. Determining factors used to decide whether OAG has successfully re-engineered and revived the program include:

- significant improvement in performance;
- resolution of computer system implementation issues;
- compliance with federal welfare reform mandates; and
- significant improvements in customer service and client satisfaction.

B. Require the Child Support Division to report on the above criteria to the Sunset Commission and appropriate legislative committees no later than October 15, 2000.

C. Require the Sunset Commission to perform a compliance and status review and report to the 77th Legislature.

The Legislature adopted the Sunset Commission recommendation to provide the new Attorney General a two-year opportunity to put in place changes necessary to improve the primary facets of child support operations. The Sunset Commission will monitor and evaluate the OAG's progress and make recommendations to the 77th Legislature regarding the need for further structural or operational changes.

2. Mandate that State Agencies Involved with the Child Support Program Participate in the Development of a Statewide Interagency Partnership Strategy.
-

The Legislature adopted the Sunset Commission recommendation to establish a standing child support executive workgroup, comprised of the Department of Human Services, Texas Department of Health,

Department of Protective and Regulatory Services, Texas Workforce Commission, and Comptroller's Office to address coordination of efforts, data exchange, and to explore opportunities in:

- contracting to provide child support services related to an agency's core functions;
- improving intake and client referral functions;
- enhancing foster care child support collection;
- increasing recovery of Medical Assistance (Medicaid) through child support collections; and
- the receipt and payment of child support by the State Comptroller or by a private company.

The Health and Human Services Commission should be included when issues related to its area of oversight are to be discussed.

3. Establish a Permanent Process for a County Work Group to be Integrally Involved in the Division's Development of Program Initiatives that Affect Counties.
-

The bill establishes a county work group to, at a minimum:

- establish a state/county child support improvement plan by January 1, 2000;
- assist in developing rules for the State Disbursement Unit;
- plan for monetary incentives for county partnership programs;
- help to expand the number of agreements with counties for enforcement services; and
- work with relevant statewide associations on a model partnership agreement.

The work group was originally recommended by the Sunset Commission and approved by the Legislature.

4. Report to the Legislature on the Progress and Impact of Privatization Initiatives.

The Legislature endorsed a Sunset Commission recommendation requiring a report on the impact of privatization initiatives. The legislation requires this report to be transmitted to the appropriate legislative committees and the Legislative Budget Board by December 1, 2000. Additional reports will be submitted when any further substantial privatization occurs.

5. Require the Division to Establish an Information Resources Steering Committee.

The Legislature adopted the Sunset Commission recommendation to establish an internal committee to address information technology problems and assist the Division in achieving its core task of obtaining and sending child support to children and families. The committee will be composed of senior level executive management representing all significant functions of the Division.

6. Require the DHS/OAG Interagency Agreement to Set Timeliness and Data Exchange Standards for Information Needed by the Child Support Division to Establish Child Support.

The Legislature adopted the Sunset Commission recommendation to require the Department of Human Services and the OAG to cooperate extensively to provide child support services to clients on Temporary Assistance for Needy Families (TANF). The agencies must also delineate standards to ensure that TANF recipients that fail to cooperate or comply with OAG requirements are quickly sanctioned and TANF benefits reduced.

7. Require the Division to Maintain and Report Data Sufficient to Evaluate the Use and Effectiveness of All Tools Available to Enforce Child Support.

The Sunset Commission recommended that better information be available to assess the sanctions for child support enforcement. The Legislature adopted this approach.

8. Provide that a Man who Signs a Paternity Acknowledgment is Considered to be the Legal Father for Child Support Purposes without an Additional Court-Established Paternity Order.

The Legislature adopted the Sunset Commission recommendations to streamline the paternity acknowledgment process. Currently, the OAG must go to court to establish paternity for child support purposes for fathers who have already acknowledged their parenthood. This requirement causes delays in obtaining child support for children and uses valuable court time. The bill also ensures that the person retains the right to dispute paternity through the courts.

9. Require the Division to Evaluate Alternative Sources of Revenue.

The Sunset Commission recommended, and the Legislature concurred, that the Division seek other forms of funding to replace lost revenues. As the number of TANF cases declines, federal funding is expected to decline. The Division will examine alternative sources of revenue, including fees, to replace these reduced funding levels. The Division must report to the Legislature and Sunset Commission on the evaluation by July 1, 2000.

10. Institute and Publicize a Single Complaint System that Responds to, Tracks, and Helps Resolve Client Complaints.

This Sunset Commission recommendation, adopted by the Legislature, requires the Division to summarize and analyze complaint data for management and for reports to the Legislature. In addition, the Division is required to establish an ombudsman program to better handle difficult cases and to coordinate complaint handling in local offices.

11. Require the Division to Provide a Statewide Toll-Free Customer Service Line to Employers.

This recommendation, adopted by both the Sunset Commission and Legislature, requires employers who provide wage-withholding services for the State compete with all other callers when obtaining information necessary to provide the State this service. A separate telephone access point will be provided to employers in need of specialized information.

12. Allow Orders of a Child Support Court Master, other than Enforcement by Contempt or Immediate Incarceration, to be Valid without Ratification by the Referring Court.

The Legislature, based on the recommendations of an advisory group recommended by the Sunset Commission, added provisions that remove the time-consuming process of court ratification of all orders issued by Child Support Court Masters. However, the bill retains provisions that allow orders to still be appealed to the referring court. When a Master enforces child support by incarceration, on or before the first working day following an appeal of the Master's action, the respondent must be brought before the referring court to determine if the person may be released on bond.

13. Require the Presiding Judges and the Office of Court Administration to Develop a Plan to Improve the Quality and Accountability of Child Support Court Masters.

The Legislature, based on the recommendations of an advisory group recommended by the Sunset Commission, required District Court Judges and the Office of Court Administration to examine the current system for oversight of Court Masters and implement improvements to ensure greater consistency and stronger accountability.

14. Implement the Federally-Required State Disbursement Unit (SDU).

The Legislature added provisions that conform state law to federal requirements for the establishment and operation of a State Disbursement Unit. Significant provisions include a requirement for the SDU to receive and disburse all IV-D and wage-withheld child support in Texas and require payments made to the SDU to be disbursed to families within two days as required by federal law.

15. Remove the Option for Jury Trials in Paternity Establishment Cases, to Comply with Federal Law.

As a result of federal mandates, the Legislature adopted a provision that eliminates authority for jury trials when a person disagrees with a determination of paternity. A hearing before a judge is still allowed.

Fiscal Impact

Implementation of the provisions in the Sunset bill will result in a net positive impact to the General Revenue Fund for the biennium ending August 31, 2001. The provisions allowing a court to issue a temporary support order based on an acknowledgment of paternity will reduce the number of paternity tests administered each year, reducing costs by \$518,250 per year. These provisions are also projected to result in an increase of \$3,479,390 in child support collections for TANF cases. The State will retain one-third of those increased collections and the remaining two-thirds must be returned to the federal government. The provisions in the bill relating to improving information exchanges with the Department of Human Services and imposition of sanctions for TANF clients not complying with child support requirements are expected to result in an increase of \$298,602 per year in child support collections. The State retains one-third of that amount. The improvement in compliance with child support requirements by TANF recipients is also expected to reduce the amount spent on TANF grants by \$2,118,384 per year.

In addition, the management recommendations of the Sunset Commission are expected to result in a positive fiscal impact to the State as well. The recommendation to re-automate the license suspension process is one example. Before the introduction of the Texas Child Support Enforcement System, the automated license suspension program collected at least \$1.5 million in child support between August 1995 and July 1997. Re-automating the process should result in at least this amount of child support collected in the future.

Five-Year Impact				
Fiscal Year	Savings from Child Support Retained Collections in General Revenue Fund	Gain from Child Support Retained Collections in General Revenue Fund	Savings from TANF Federal Funds	Savings from Federal Funds
2000	\$51,825	\$1,418,636	\$2,118,384	\$466,425
2001	51,825	1,418,636	2,118,384	466,425
2002	51,825	1,418,636	2,118,384	466,425
2003	51,825	1,418,636	2,118,384	466,425
2004	51,825	1,418,636	2,118,384	466,425

Criminal Justice and Public Safety

Texas Department of Criminal Justice

Staff Contact: Joe Walraven

S.B. 365 Brown (McCall)

Summary

The Texas Department of Criminal Justice (TDCJ) has responsibility for the entire criminal justice system for the State, including the oversight of probation departments, the incarceration of offenders, and the supervision of persons released from its facilities before the end of their sentences. Specifically, these activities include oversight and distribution of state funding to Community Supervision and Corrections Departments that actually provide probation services at the local level. The Department also builds and operates prisons, state jails, substance abuse centers, and other facilities for the confinement of persons convicted of felonies in Texas. While the Department does not make parole decisions, it supervises offenders released from prison on parole and mandatory supervision.

Senate Bill 365 continues the Department for 12 years and makes several changes to its statute and to the statutes governing the Private Sector Prison Industries Oversight Authority and the Texas Council on Offenders with Mental Impairments. The bill reflects the recommendations of the Sunset Commission to help the Department function better as a unified criminal justice agency by allowing it to reorganize its divisional structure and improving its coordination with parole and probation authorities. The bill largely includes the Sunset recommendation to revise funding sources for probation departments to improve their ability to use these funds for the benefit of the state. The bill also incorporates and expands on Sunset recommendations to improve oversight and operational aspects of both the Department's and the private sector prison industries programs. In addition, it improves record keeping for offenders in job training and work programs to improve their ability to get jobs on release and to reduce recidivism. Finally, the bill includes a provision added by the Legislature for civilly committing persons identified as sexually violent predators after they have completed their sentence or have been released from a facility of the Texas Department of Mental Health and Mental Retardation.

Major Bill Provisions

1. Allow TDCJ to Reorganize its Divisions.
2. Improve Coordination on Parole and Probation Matters.
3. Revise Funding Sources for Community Supervision and Corrections Departments (CSCDs).
4. Improve Record Keeping for Offenders in Job Training and Prison Work Programs.
5. Improve Operations of TDCJ's Texas Correctional Industries (TCI).
6. Improve Oversight and Operations of the Private Sector Prison Industries Program.
7. Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.
8. Establish a Process for Outpatient Civil Commitment of Sexually Violent Predators.
9. Allow the Windham School District to Serve High School Graduates.
10. Clarify the Authority of Agencies to Disclose Information about Special Needs Offenders.
11. Increase the Cap on the Number of Beds for Which TDCJ May Contract.
12. Continue the Texas Department of Criminal Justice for 12 Years.

Major Bill Provisions

1. Allow TDCJ to Reorganize its Divisions.

- A. Remove statutory provisions mandating the establishment of divisions within TDCJ.**
- B. Provide for the Judicial Advisory Council to advise the Board and the Executive Director regarding the potential impact of possible reorganization.**

The Legislature adopted the Sunset recommendation eliminating statutory references to TDCJ's divisions and allowing the Executive Director, subject to Board approval, the authority to establish and reorganize divisions within the Department. Instead of relying on the Legislature for structural changes, this more responsive approach allows the Board and Executive Director to make such changes for effective administration and performance of agency functions, with accountability to the Legislature for the results.

The bill also allows the Judicial Advisory Council, which represents the views of the State's criminal court judges and Community Supervision and Corrections Departments, to provide input to the Board and the Executive Director regarding the potential effect of proposed agency organizational changes on these local entities.

2. Improve Coordination on Parole and Probation Matters.

- A. Require TDCJ and the Parole Board to jointly review of all parole rules, policies, and procedures to identify and reconcile gaps and areas of inconsistency.**
- B. Provide a formal opportunity for the Parole Board and the Judicial Advisory Council to appear before the Board of Criminal Justice.**

The Legislature adopted the Sunset recommendation to improve coordination between TDCJ and the Parole Board. Requiring a joint review by the Parole Board and TDCJ of all parole rules, policies, and procedures will reveal areas which are conflicting or lacking and ensure that the Parole Board and TDCJ better coordinate their efforts.

The bill also provides a continuing forum for considering parole matters of mutual concern to the Parole Board and the Department. The Legislature added a similar provision for the Judicial Advisory Council to address the Board of Criminal Justice regarding probation issues.

3. Revise Funding Sources for Community Supervision and Corrections Departments (CSCD).

- A. Establish a cap on the amount of reserves that a CSCD may keep and reduce the amount of Basic Supervision formula funding to a CSCD by the amount exceeding the cap.**
- B. Eliminate the requirement for CSCDs to prepare presentence or postsentence investigation reports in a form prescribed by TDCJ.**
- C. Allow CSCDs to return unspent basic supervision and community corrections programming funds to TDCJ for redistribution during a biennium.**

The Legislature modified a series of provisions recommended by the Sunset Commission to help ensure that state funds intended to be used by CSCDs are ultimately used for probation purposes. By capping reserves that CSCDs may keep, the bill reduces their incentive not to spend money for supervision purposes. CSCDs may accumulate reserves as they currently do, but TDCJ may reduce formula funding for a CSCD that has six months' operating costs. This six-month cap on allowable reserves is an increase from the two-month cap recommended by the Sunset Commission.

Eliminating the requirement for presentence or postsentence investigation reports in a form prescribed by TDCJ frees the State from having to pay for reports of questionable utility for both the local departments and TDCJ. This change does not affect the responsibility of judges to order presentence reports in any format they desire to assist in sentencing decisions. The bill provides that, if prepared, such a report still be sent to TDCJ.

The bill also reflects the Sunset Commission's recommendation to allow CSCDs to return unspent formula funds to the Department to be redistributed to CSCDs through discretionary grants. This change reflects TDCJ's authority to reallocate unspent grant funds within

the biennium. It also improves TDCJ's ability to keep money intended for probation working to divert offenders from prison.

4. Improve Record Keeping for Offenders in Job Training and Prison Work Programs.

- A. Require TDCJ to create or formalize on-the-job training programs for each inmate work program.**
- B. Expand the requirement to keep records on inmate job training and performance evaluations to include all inmate work programs.**

The Legislature adopted the Sunset recommendations to strengthen TDCJ's efforts to provide offenders with meaningful job training and to document this work experience. TDCJ must also provide a copy of these job training and work records to offenders upon release. With these changes, TDCJ must expand its existing record keeping regarding offenders' participation in job training and work programs to include all TDCJ facilities, including state jails, transfer facilities, and intermediate sanction facilities, instead of just state prisons operated by the Institutional Division. These changes are intended to improve the ability of these offenders to secure employment upon release and thus reduce their return to the system.

5. Improve Operations of TDCJ's Texas Correctional Industries Program.

- A. Simplify the goals of the Texas Correctional Industries (TCI) program.**
- B. Provide a higher level of autonomy to the Director of TCI.**
- C. Discontinue financing TCI operations from the industrial revolving fund and provide funding instead solely through the appropriations process.**

The Legislature adopted a series of recommendations by the Sunset Commission to help the Texas Correctional Industries program operate more successfully as a business enterprise. The bill reduces TCI's goals from seven to two. First, TCI should reduce the cost of prison

operation by producing goods and services for use by TDCJ and by providing goods and services on a for-profit basis for other units of state and local government. Second, TCI should provide offenders with marketable job skills to help reduce recidivism.

The bill also provides specific tools to enable the director of TCI to address the special needs of prison industries in conjunction with the security concerns of operating prisons. The bill gives priority to offenders closest to release in making placements that provide the most marketable skills. It also requires TDCJ and the General Services Commission to work together to expedite TCI's purchasing, and it clarifies that TCI is a vendor eligible to receive interest payments on slow-pay accounts.

The Legislature added language to clarify TDCJ's authority regarding contracts with the private sector for the operation of prison industries. The bill increases from 250 to 500 the number of TDCJ offenders that may participate in a prison industries program under such a contract.

The Legislature also adopted the Sunset recommendation to eliminate the use of the industrial revolving fund and provide for funding from appropriated receipts from the sale of TCI articles and products. This change allows TDCJ to account for all TCI revenues and expenditures without separating outside sales and TDCJ sales, simplifying accounting and improving management of program spending.

6. Improve Oversight and Operations of the Private Sector Prison Industries Program.

- A. Increase the number of participants allowed in contracted prison industries programs.**
- B. Change the composition of the Private Sector Prison Industries Oversight Authority.**
- C. Require the Authority to determine if the private sector prison industries program causes the loss of existing jobs.**
- D. Clarify how the prevailing wage is to be determined in computing pay for participants in the private sector prison industries program.**

The Legislature added provisions to change the oversight and operations of the private sector prison industries program involving TDCJ, the Texas Youth Com-

mission, and county jails. Through this program, private businesses operate prison industries in a contractual arrangement that is overseen by the nine-member Private Sector Prison Industries Oversight Authority, appointed by the Governor.

The bill deletes the position on the Authority for an employer certified to participate in the program and replaces it with a public member, increasing the number of public members from three to four. The Governor must appoint an employer liaison to the Authority who may attend meetings of the Authority and offer advice from the perspective of a prison industries employer, but may not vote. In addition, funds for the program may be used to pay reimbursable expenses of Authority members and the employer liaison.

The bill also increases from 1,500 to 2,000 the number of offenders that may participate in the program. It also clarifies how the prevailing wage is to be determined for purposes of computing participant pay in the program and requires the Authority to adopt rules to determine if the program would cause the loss of existing jobs in the state.

7. Maximize the Collection of Fees from Probationers in State Substance Abuse Aftercare Programs.

The Legislature adopted, with a minor modification, the Sunset recommendation to require defendants on community supervision to pay a fee for residential aftercare as a condition of being sentenced to a Substance Abuse Felony Punishment facility. The bill requires judges to consider a defendant's fines, fees, and other obligations when setting the fee and limits the fee to no greater than 25 percent of the defendant's gross income. The Legislature added language specifying that these fees are to be remitted to the Comptroller and deposited into the General Revenue Fund.

8. Establish a Process for Outpatient Civil Commitment of Sexually Violent Predators.

A. Establish a process for identifying sexual predators.

B. Provide for hearing in district court to determine if a person should be committed and to establish conditions.

C. Establish a process for a person to be released from commitment.

The Legislature added a provision to the Sunset bill for the civil commitment of persons judged to be sexually violent predators after they have served their sentence or have been discharged from a mental health facility. Such a person is defined as a repeat sexually violent offender and as a person with a behavioral abnormality that makes them likely to engage in a predatory act of sexual violence.

The bill establishes a process for identifying repeat sexually violent offenders and determining if they have a behavioral abnormality that makes them likely to engage in a predatory act of sexual violence. The bill specifies that a district court in Montgomery County determines if the person is a sexually violent predator. After such a determination, the person's commitment for outpatient treatment and supervision continues as long as the person is judged to pose a threat to engage in a predatory act of sexual violence. The judge imposes the treatment and supervision requirements, such as requiring residence in a particular location, specifying a course of treatment, and tracking or otherwise supervising the person.

The bill makes the Interagency Council on Sex Offender Treatment responsible for contracting for the treatment of the committed person and provides for payments of up to \$6,000 annually for a treatment provider. The Council employs or contracts with a case manager to provide supervision to the person including tracking services and supervised housing. The Council must enter into an interagency agreement with the Department of Public Safety (DPS) for tracking services and it must contract for any necessary supervised housing. Committed persons may not be housed in a mental health facility, state school, or community center.

The case manager must coordinate the required outpatient treatment and supervision, including assessing the success of treatment, recommending changes in supervision requirements, and reporting to the Council on changes in the person's status that affects proper treatment and supervision.

Persons committed must receive a biennial examination and be considered for changes to their supervision or treatment requirements or for release from all requirements. The bill also provides for the case man-

ager and even the committed person to initiate more frequent reviews to determine if the person is still a threat to engage in a predatory act of sexual violence.

The bill applies the civil commitment process to a person who on or after January 1, 2000, is serving a sentence in TDCJ or committed to TDMHMR for an offense committed before, on, or after the effective date of this Act.

9. Allow the Windham School District to Serve High School Graduates.

The Legislature added a provision to allow the Windham School District, which serves TDCJ, to offer programs and services to an offender in a TDCJ facility who is a high school graduate. The bill provides for foundation school fund money to be used for this purpose to the extent that space is available. Currently, the Windham School District may only accept inmates who do not have a high school diploma.

10. Clarify the Authority of Agencies to Disclose Information about Special Needs Offenders.

The Legislature added language to the governing statute for the Texas Council on Offenders with Mental Impairments to clarify that an agency may disclose infor-

mation about a special needs offender's supervision status. It also redefined "state agency" to specify the human services, educational, and criminal justice agencies—including local jails—that must exchange information in providing continuity of care for special needs offenders. The Legislature also expanded the definition of "special needs offender" to include any individual who is in custody or under supervision after conviction.

11. Increase the Cap on the Number of Beds for Which TDCJ May Contract.

The Legislature added a provision to increase from 4,080 to 4,580 the cap on the number of beds for which the Institutional Division of TDCJ may contract with private vendors and counties to provide correctional facilities.

12. Continue the Texas Department of Criminal Justice for 12 Years.

The Legislature adopted the Sunset recommendation to continue the Department for the usual 12 years, with a new Sunset date of September 1, 2011. Because the Board of Pardons and Paroles is not subject to abolishment, but is instead subject to review at the same time as TDCJ, it is also scheduled for review in 2011.

Fiscal Impact

Implementation of the provisions in the final Sunset bill will result in a net cost to the State of approximately \$1.8 million for the biennium ending August 31, 2001. Most of the cost associated with the bill results from the provision for an outpatient civil commitment process for sexual predators. The bill also causes a significant increase in General Revenue Related Funds resulting from the provision to abolish the Industrial Revolving Fund that has been used to pay for a portion of Texas Correctional Industries program.

The bill abolishes the General Revenue-Dedicated Industrial Revolving Account No. 156, removing the dedication from the account and requiring receipts from the sale of TCI articles and products to be deposited as undedicated to the General Revenue Fund. This transfer to the General Revenue Fund is estimated to be approximately \$14.5 million annually. Under the provisions of the bill, TCI could continue to use appropriated money in amounts corresponding to receipts from the sale of TCI articles and products.

The provision eliminating the requirement for local community supervision and corrections departments to prepare presentence or postsentence reports in a format determined by the TDCJ is estimated to save just over \$1 million each year. Judges retain the authority to direct completion of postsentence reports at their discretion. In addition, the existing responsibility of judges to order presentence investigation reports is not changed. If such a report is other-

wise required by law , a copy must be sent to TDCJ in a format of the judges' choosing, and TDCJ must continue to reimburse CSCDs for the expense.

The bill also requires judges to set fees for payment of residential aftercare by offenders on community supervision that are released from substance abuse felony punishment facilities. The fee amounts are determined by the judge with collections to be remitted to the Comptroller of Public Accounts to be deposited into the General Revenue Fund. Approximately \$700,000 is expected to be collected each year under this provision.

The provision enhancing record keeping for offender job training and work programs will extend these efforts to an additional 49 TDCJ correctional units. TDCJ will need additional correctional unit staff and related operating expenses to address these expanded responsibilities. This provision is estimated to cost approximately \$676,000 annually and require an additional 23 employees.

The process for the outpatient civil commitment of persons identified as sexual predators is estimated to cost approximately \$1.8 million in the first year, with costs expected to gradually increase thereafter. Costs will accrue to the Prison Prosecution Unit to establish a special division to initiate and pursue civil commitment proceedings. In addition, the Interagency Council on Sex Offender Treatment will incur costs for an additional two employees to assist with rules development, contract development and monitoring, and to coordinate treatment and supervision of persons committed under the provisions of the bill. Treatment will be provided through contract with treatment providers, with annual compensation limited to \$6,000. Supervision activities include tracking committed individuals and, if required by court order, providing supervised housing. TDCJ will incur costs and require an additional 11 employees for activities such as reviewing offender case files and providing offender transportation and legal representation. Finally, the Department of Public Safety will incur costs for court-ordered tracking services for committed individuals.

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

Five-Year Impact			
Fiscal Year	Probable Net Revenue Gain to General Revenue Fund 001	Probable Revenue Loss from Industrial Revolving Account/GR-Dedicated 156	Change in Number of State Employees from FY 99
2000	\$13,761,030	(\$14,502,000)	36
2001	13,392,176	(14,502,000)	36
2002	12,890,951	(14,502,000)	36
2003	12,695,451	(14,502,000)	36
2004	12,495,951	(14,502,000)	36

Board of Pardons and Paroles

Staff Contact: Kris Heckmann

S.B. 352 Brown (McCall)

Summary

The Board of Pardons and Paroles consists of 18 members appointed by the Governor. The Parole Board decides who is granted parole and under what conditions, revokes parole when serious violations occur, and recommends to the Governor who should be granted clemency. While persons released on parole or mandatory supervision must abide by conditions established by the Parole Board, they are supervised by parole officers employed by the Texas Department of Criminal Justice (TDCJ).

The Parole Board was reviewed by Sunset staff two years ago, at which time the Legislature adopted recommendations to improve the Board's ability to manage its affairs and its parole revocation hearings. In addition, the Parole Board's Sunset date was removed and its review was linked to the review of TDCJ because of the overlapping parole functions between the Parole Board and the Department. Provisions to improve the coordination between the Parole Board and TDCJ are contained in Senate Bill 365, the Sunset legislation on TDCJ.

Senate Bill 352 contains no major provisions and consists entirely of updates of the Sunset Commission's standard across-the-board recommendations that are applied to the Parole Board. The Legislature adopted each of these provisions without modification. Across-the-board recommendations are statutory administrative policies adopted by the Sunset Commission that contain "good government" standards for state agencies. These recommendations are applied to every state agency reviewed by the Sunset Commission.

Fiscal Impact

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

Correctional Managed Health Care Advisory Committee

Staff Contact: Karen Latta

S.B. 371 Brown (Gray)

Summary

The Legislature created the Correctional Managed Health Care Advisory Committee in 1993 to oversee contracts on behalf of the Texas Department of Criminal Justice (TDCJ) for prison health care services. The Committee contracts with the University of Texas Medical Branch in Galveston and Texas Tech University Health Sciences Center to provide health care to TDCJ inmates.

Senate Bill 371 continues the Committee for six years. The bill also expands the Committee's membership by adding three public members which will provide additional expertise and a broader perspective. Other provisions of the bill specify the duties of the Committee to manage the contracts for health care and monitor the quality of care inmates receive. Previously, these duties were specified only in the contracts between the Committee, TDCJ, and the health care providers. The Sunset review of the Committee occurred in conjunction with the review of TDCJ.

Major Bill Provisions

1. Expand the Committee's Membership to Provide Additional Expertise and Achieve a Broader Perspective.
2. Specify the Duties of the Committee to Oversee the Correctional Health Care Contracts.
3. Specify Quality of Care Monitoring Responsibilities of the Committee and TDCJ.
4. Require the Committee to Study the Use of Rural Hospital Contracts.
5. Continue the Committee for Six Years.

Major Bill Provisions

1. Expand the Committee's Membership to Provide Additional Expertise and Achieve a Broader Perspective.
-

The Legislature adopted the Sunset Commission recommendation to retain the existing Committee members specified in statute while expanding the size of the Committee from six to nine, by adding members as follows:

- two persons licensed to practice medicine in Texas, who are not affiliated with the contracting entities, and
- one person representing the general public.

This provision will provide additional perspective to the oversight of the health care contracts and eliminate the voting majority of the university providers that currently hold these contracts. The Governor will appoint the new members to serve staggered, six-year teams and designate one of the physician-members to chair the Committee.

2. Specify the Duties of the Committee to Oversee the Correctional Health Care Contracts.
-

The Legislature adopted, with modifications, the Sunset Commission recommendation to specify the responsibilities of the Committee, including:

- developing contracts for correctional health care services,
- determining an accurate capitation rate,
- allocating money to contracted health care providers, and
- acting as an independent third-party between TDCJ and the health care providers.

These provisions will ensure that functions previously specified only in the contracts with the providers are clearly laid out in statute. To determine an accurate capitation rate and identify trends in the health of the

offender population, the Committee is authorized to hire financial and actuarial consultants. While the Sunset Commission recommendation required the Committee to contract with these consultants, the Legislature modified this provision to make it permissive.

The Legislature also adopted the Sunset recommendation to change the name of the agency to the Correctional Managed Health Care Committee to accurately reflect its role as more than an advisory body. The bill does not include the Sunset Commission recommendation to administratively link the Committee to TDCJ.

3. Specify Quality of Care Monitoring Responsibilities of the Committee and TDCJ.
-

The Legislature modified the Sunset Commission recommendation to specify quality of care monitoring responsibilities. This provision requires the Committee to establish procedures for monitoring the quality of care delivered by the health care providers. Under these procedures, TDCJ is limited to investigating medical grievances, ensuring access to care, and conducting reviews of medical facilities. The bill also requires TDCJ and the health care providers to cooperate in monitoring quality of care and to communicate the results of their monitoring to the Committee.

4. Require the Committee to Study the Use of Rural Hospital Contracts.
-

The Legislature added a provision to require the Committee, in conjunction with the university health care providers and TDCJ, to conduct a review of the use of rural hospital contracts for inmate care. The review must include analysis of the transportation, security, and health care costs and may include recommendations for improving the use of rural hospital contracts. The Committee must report its findings and recommendations from the review of rural hospital contracts to the 77th Legislature.

-
5. Continue the Committee for Six Years.
-

The Legislature adopted the Sunset Commission recommendation for a six-year instead of a 12-year Sunset date. This will allow the Legislature to re-evaluate the need for a separate entity to oversee the correctional health care system at that time.

Fiscal Impact

This legislation will not result in a fiscal impact to the State.

Department of Public Safety

Staff Contact: Jay Schmidt

S.B. 370 Brown (Bosse)

Summary

The Department of Public Safety's (DPS) mission is to enforce laws protecting public safety and provide for the prevention and detection of crime. However, the Department's responsibilities have become more diverse and include functions that extend beyond the traditional scope of law enforcement, such as licensing programs for driver's and concealed handguns, maintenance of state communications and information networks that support local law enforcement agencies, and administration and coordination of emergency preparedness and response programs.

Senate Bill 370 continues the Department of Public Safety for 10 years and contains several statutory changes to strengthen the Department's internal oversight and accountability, employee relations, and the efficient use of limited resources. The Legislature agreed with the Sunset Commission recommendations to provide additional resources, authority, and encouragement to assist DPS in better managing its affairs, except in one notable instance. The Legislature did not adopt the recommendation to increase the size of the Public Safety Commission to six members.

The Legislature also adopted several provisions that affect other aspects of DPS' operations. Specifically, the Legislature clarified the Department's employee hiring, evaluation, and disciplinary procedures, including authorizing discharged DPS commissioned officers to seek judicial review in district court. In addition, changes were made to the state's vehicle emission testing and vehicle safety inspection programs. The changes will allow the Department to better ensure vehicles are operated in compliance with emission and safety standards. Lastly, several changes were made to driver's licenses, including requiring the Department to issue a new license to victims of domestic abuse.

Major Bill Provisions

1. Strengthen Independence and Oversight of DPS' Internal Review Functions.
2. Formalize the Grievance Process and Use Mediation to Improve Employee Relations.
3. Authorize the Director to Select Senior-Level Management Staff.
4. Increase Oversight of Seized Assets.
5. Authorize Electronic Renewal of Driver's Licenses.
6. Use Civilian Staff to Conduct Routine Audits and Inspections to Help Ensure Truck Safety.
7. Improve Department of Public Safety and Texas Department of Transportation Planning for the Enforcement of Truck Safety Laws.
8. Exempt the Public Safety Commission from the Open Meetings Act Concerning On-going Criminal Investigation Matters.
9. Authorize Judicial Review for Discharged Commissioned Officers.
10. Enhance Protection of an Individual's Privacy and Identity.

Major Bill Provisions (cont.)

11. Strengthen the State's Vehicle Emission and Safety Inspection Programs.
12. Increase Driver's License Reinstatement Fees.
13. Continue the Department of Public Safety for 10 Years.

Removed Provision

1. Expand the Public Safety Commission to Six Members.

Major Bill Provisions

1. Strengthen Independence and Oversight of DPS' Internal Review Functions.

A. Consolidate Internal Audit and Inspection and Planning into a single Office of Audit and Review that directly reports to the Public Safety Commission.

B. Establish as the mission of the Office of Audit and Review the responsibility to independently and objectively audit and inspect all divisions of the Department.

C. Specify that the Office is authorized to:

- conduct independent and objective audits and inspections relating to Department programs and operations;
- promote economy, effectiveness, and efficiency within the Department;
- prevent and detect fraud, waste, and abuse in Department programs and operations;
- review and make recommendations regarding regulations relating to Department programs and operations; and
- keep the Commission, Director, and the Legislature fully informed of problems in Department programs and operations.

D. Empower the Director of the Office of Audit and Review with:

- independence to determine what reviews to perform,
- access to all necessary information, and
- authority to publish review findings and recommendations.

E. Specify that the Internal Affairs section:

- reports directly to the Director,
- has original departmental jurisdiction over all investigations occurring on departmental property or involving DPS employees,

- initiate investigations based on a request from the Director or Commission, and
- report summary information on investigations to the Commission.

The Legislature adopted the Sunset Commission recommendation to improve the Department's internal oversight functions. Specifically, the Sunset bill requires combining existing internal oversight functions into an Office of Audit and Review that reports directly to the Public Safety Commission. The Commission hires the Director of the Office of Audit and Review, who must meet all requirements of the Internal Audit Act and provide all reports of its audits and inspections directly to the Commission. The Office may use the Executive Director's Office for administrative purposes and must continue to inform the Executive Director of its report findings.

This recommendation also establishes an Office of Internal Affairs and requires the head of Internal Affairs to be hired by the Director. The Legislature added provisions clarifying that internal affairs investigations can only be initiated by the Director or the Commission. Also, the Internal Affairs section would be required to keep the Commission informed on all current criminal investigations and analysis of investigation trends.

2. Formalize the Grievance Process and Use Mediation to Improve Employee Relations.

A. Require the Department to formalize an employment-related grievance procedure that includes the following key elements:

- a form for employees to state their employment-related grievances and request a specific corrective action;
- time limits for employees to submit grievances and for management to respond;
- a stepped process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;
- a method to track the number of grievances filed and the subjects and resolution of the grievances;

- an assurance that confidentiality of all parties involved will be maintained and retaliation against an employee filing a grievance is prohibited; and
- a program to advertise and explain the grievance procedure to all employees.

B. Require DPS to prepare an annual report on the use of its employment-related grievance process to be submitted to the Public Safety Commission and the Legislature.

C. Require the department to allow all employees the option of using mediation to resolve employment-related grievances.

D. Require the Public Safety Commission to adopt rules governing all disciplinary action appeal hearings.

This recommendation establishes a formal procedure for DPS employees to express employment-related grievances. The recommendation allows the Public Safety Commission and the Legislature to monitor implementation of the revised grievance process and provide information to agency and state decision makers on employment-related problems within the agency.

The Legislature modified the Sunset Commission recommendations concerning the use of mediation to resolve employment-related and disciplinary action appeals. The bill, as it passed, allows employees to request mediation to resolve employment-related grievances. The Public Safety Commission must adopt rules establishing when the use of mediation is appropriate in the grievance process, as well as rules that describe in detail the procedures and practices governing appeals. The Legislature, however, removed provisions requiring the Department to phase-in the use of mediation for appeals of disciplinary actions and limiting an employee to a single avenue of appeal.

3. Authorize the Director to Select Senior-Level Management Staff.

A. Authorize the reassignment or demotion of key management staff at the Director's discretion.

B. Require the Public Safety Commission to approve criteria used by the Director to appoint key management personnel.

C. Authorize the Director to appoint the Assistant Director with the approval of the Public Safety Commission.

The Legislature adopted the Sunset Commission recommendation allowing the Director to appoint the major division heads and positions within the Director's own staff. This does not change the for-cause status of the Department's employees; rather, it authorizes the Director to demote or reassign management staff, commissioned and non-commissioned, without documenting a specific violation of a Commission rule. An employee appointed to a key position, upon demotion or reassignment, may be assigned to an equivalent position or returned to the rank the employee held, or its equivalent, immediately before the appointment.

The Legislature expanded this provision to cover all senior level managers reporting to the Director by removing language that had exempted the highest ranking officer of the Texas Rangers from being appointed by the Director.

4. Increase Oversight of Seized Assets.

A. Require the Public Safety Commission to approve all of the Department's seized asset expenditures and adopt, by rule, an approval process.

B. Require the Department to annually report to the Legislature on its expenditures and planned future uses of seized assets as follows:

- regarding receipts - the court that adjudicated a seized asset case, the nature and value of the assets, and the specific intended use of the assets;
- regarding disbursements - the departmental control number and category, the division making the request, the specific item and amount requested, the amount the Commission approved, and the actual amount expended per item; and
- regarding planned disbursements - a description of the broad categories of anticipated disbursements and how they relate to the Department's strategic plan.

The Legislature adopted the Sunset recommendations concerning the oversight of seized assets without modification. Improved oversight ensures that the use of seized assets supports and is consistent with the critical law enforcement needs and priorities of the Department, as identified in the goals, strategies, and objectives of DPS's strategic plan. The Department must file a supplemental report if the planned use or actual expenditure of seized assets deviates from the information presented in the annual report.

5. Authorize Electronic Renewal of Driver's Licenses.

- A. Authorize the Department to conduct driver's license and identification card transactions by phone, Internet, or other electronic means.
- B. Authorize the Department to accept credit or debit card payment in person, by mail or phone, and over the Internet.
- C. Remove the requirement for evidence of financial responsibility for driver's license renewal transactions.
- D. Authorize the Department to include identification card renewals in the renewal by mail program.
- E. Authorize the Public Safety Commission, through rule, to:
 - set a fee for the use of credit cards, and
 - set eligibility standards to use the phone or Internet for license transactions.

The Legislature adopted the Sunset Commission recommendations to provide the Department with more flexibility to engage in electronic commerce options. The bill also authorizes the expansion of the renewal by mail program to include identification card renewals. In addition, the Department would decide who would be eligible to use the phone, Internet, or mail to renew licenses. The Commission could require a service charge to cover the cost of credit card transactions.

Eliminating the requirement to provide evidence of financial responsibility for driver's license renewals will not jeopardize public safety. However, the Legislature did add language clarifying that the Department retains the authority to require proof of insurance. An annual

check on proof of insurance is already required for motor vehicle registrations and safety inspections.

6. Use Civilian Staff to Conduct Routine Audits and Inspections to Help Ensure Truck Safety.

- A. Require DPS to use non-commissioned staff to conduct routine compliance review audits of motor carrier operations.
- B. Authorize non-commissioned staff to perform truck safety inspections at weigh stations and border checkpoints.
- C. Require the Director to develop an implementation schedule to include the use of non-commissioned staff assigned to enforce commercial motor vehicle rules.
- D. Prohibit the Department from increasing or decreasing the number of commissioned officers assigned to license and weight functions, unless specifically authorized by the General Appropriations Act.

The Legislature adopted, with several modifications, the Sunset Commission recommendations regarding the use of non-commissioned staff to enforce truck safety laws. The bill requires the Department to use civilian staff to conduct routine compliance review audits of a motor carrier's records, operations, and policies, while authorizing their use for truck inspections in the field.

The Department must ensure that civilian staff are qualified and receive the same training in truck safety inspections and audits currently given to commissioned officers and that civilian inspectors are supervised by commissioned troopers. Only a commissioned officer would issue an enforcement action against a motor carrier. The bill does not prevent the use of commissioned officers to conduct audits or safety inspections, as the Public Safety Commission determines necessary.

The Legislature modified the Sunset recommendation to clarify that the Department may not reduce or increase the number of authorized commissioned positions within the Department to comply with this provision until the implementation schedule is fully implemented or otherwise directed by the General Appropriations Act.

7. Improve DPS and TxDOT Planning for the Enforcement of Truck Safety Laws.

A. Require the Public Safety Commission and the Transportation Commission to formalize a planning process when developing transportation infrastructure projects that affect both agencies. The agreement should:

- allow DPS to provide ongoing input to TxDOT on statewide transportation planning efforts that affect traffic law enforcement,
- require DPS and TxDOT to define their respective roles relating to transportation infrastructure efforts, and
- require a jointly developed statewide plan for how best to apply for and use federal funds to address infrastructure needs that affect enforcement efforts.

B. Require DPS and TxDOT to develop and implement the interagency agreement by January 1, 2000.

C. Require DPS to develop a long-term infrastructure needs assessment for the enforcement of commercial motor vehicle regulations.

The Legislature adopted the Sunset Commission recommendation to require TxDOT to obtain DPS' input on highway building and maintenance projects that potentially affect the Department's ability to enforce commercial motor vehicle laws. The agencies will jointly determine the areas of the state that need greater enforcement, such as near the border. Through the statewide plan, both agencies will be able ensure that the State is maximizing federal transportation dollars. Both DPS and TxDOT should periodically review the interagency agreement and formally adopt all revisions to the agreement.

The long-term needs assessment report should be submitted to the Legislature as part of the Department's legislative appropriations request and also to the Transportation Commission, beginning in fiscal year 2000.

8. Exempt the Public Safety Commission from the Open Meetings Act Concerning On-going Criminal Investigation Matters.

The Legislature added language exempting the Public Safety Commission from the Open Meetings Act when it meets to deliberate or discuss on-going criminal investigations by the Department. Currently, members of the three-member Commission must meet individually with Department staff to avoid creating a quorum of the Commission subjecting it to the Open Meetings Act. A specific exemption for meetings concerning on-going criminal investigations will allow the Commission to meet as a policymaking body to more effectively guide and direct investigative efforts of DPS.

9. Authorize Judicial Review for Discharged Commissioned Officers.

The Legislature added language to the Sunset Bill authorizing discharged DPS commissioned officers to seek judicial review of the facts surrounding the dismissal. The judicial review would occur in District Court and must occur within 90 days after the Public Safety Commission affirms the discharge. A commissioned officer remains suspended without pay while a case is under judicial review.

10. Enhance Protection of an Individual's Privacy and Identity.

A. Require DPS to issue a new driver's license of identification card for victims of domestic abuse.

B. Restrict the use of a driver's license applicant's social security number.

The Legislature addressed concerns about protecting individuals' privacy and identity by requiring DPS to issue new driver's licenses or identification cards to victims of abuse as well as restricting the use of social security numbers. The Department must issue a new driver's license or identification card to an individual if the person shows a court order stating that the person has been a victim of domestic abuse.

In addition, the Legislature restricted the Department's authority to request driver's license applicants to provide their social security number. The only exception to the prohibition is unless the social security number is required to comply with federal law, such as for the enforcement of child support collection.

11. Strengthen the State's Vehicle Emission and Safety Inspection Programs.

- A. Authorize the Department to allow alternative vehicle emission testing.**
- B. Clarifies requirements under the compulsory inspection of vehicles program.**
- C. Increase the initial and annual motor vehicle safety inspection fees.**

The Legislature added several provisions to enable the state to more effectively test vehicle emissions. Specifically, the bill authorizes the Department and the Texas Natural Resource Conservation Commission to use alternative emission testing techniques, including onboard diagnostic testing. In addition, the Legislature expanded the number of items to be inspected during a vehicle safety inspection to include the fuel tank cap and emission control equipment.

The Legislature added language increasing the fees for the initial and annual motor vehicle safety inspections. The increase raises the fee for the initial two-year inspection from \$19.75 to \$21.75 and the annual fee from \$10.50 to \$12.50. The additional revenue from the fee increase will be retained by the inspection station to cover the increasing cost of conducting inspections.

12. Increase Driver's License Reinstatement Fees.

The Legislature added a provision to the bill increasing the reinstatement fee for revoked or suspended driver's licenses. The fee increases from \$50 to \$100 and is consistent with reinstatement fees for licenses revoked or suspended due to a driving while intoxicated offence.

13. Continue the Department of Public Safety for 10 Years.

The Legislature adopted the Sunset Commission recommendation to continue the Department of Public Safety for 10 years.

Removed Provisions

1. Expand the Public Safety Commission to Six Members.

- A. Increase the size of the Public Safety Commission to six members.**
- B. Authorize a subcommittee of the Public Safety Commission to hear appeals of personnel actions.**

The Legislature did not adopt the Sunset Commission's recommendation to increase the size of the Public Safety Commission. The recommendation would have also authorized the creation of subcommittees to hear appeals of discharge appeals.

Fiscal Impact

Implementation of the provisions in the final Sunset bill will result in a net positive impact of \$7.8 million to the General Revenue Fund for the biennium ending August 31, 2001. The net fiscal gain to the General Revenue Fund results primarily from additional driver's license fee revenue. Specifically, \$5.25 million per year in additional revenue will result from increasing driver's license reinstate fees. An additional gain of \$500,000 annually will result from issuing new driver's licenses to victims of domestic abuse. However, the gain is not reflected in this summary because the provision passed as separate legislation.

Implementation of the provisions in the bill will also result in additional costs to the General Revenue Fund. The provision requiring the Department to include the use of noncommissioned staff to supplement existing commissioned staff to audit and inspect commercial motor vehicles will result in a cost to general revenue. The bill prohibits reducing commissioned positions to comply with this provision, therefore, additional positions will be required. At a minimum, DPS will use 30 noncommissioned staff to supplement enforcement efforts of commercial vehicles. Also, the provisions relating to formalizing employee grievance procedures and using mediation will result in a cost to general revenue. The costs are associated with hiring additional staff to support mediation efforts for employment-related grievances and to establish a method to track grievances. Lastly, the provision authorizing electronic renewals of driver's licenses and identification cards will result in a cost to general revenue. Because the bill only authorizes the Department to implement an electronic renewal system, the Department has the flexibility to phase-in the implementation of this provision in such a way that minimizes costs.

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

Five-Year Impact		
Fiscal Year	Gain to General Revenue Fund	Change in Number of State Employees from FY 99
2000	\$3,060,419	33.5
2001	3,761,819	38.5
2002	3,922,024	38.5
2003	3,922,024	38.5
2004	3,922,024	38.5

Texas Board of Private Investigators and Private Security Agencies

Staff Contact: Ash Hamid

H.B. 2617 Bosse (Harris)

Summary

The Texas Board of Private Investigators and Private Security Agencies was created in 1969 by the Legislature to license and regulate businesses and people in the private investigations and private security industry. The Board has the responsibility to establish standards for licensure, develop minimum level training or competency materials, approve schools and instructors, and administer exams to qualified applicants. In addition, the agency has the duty to enforce the provisions of the Private Investigators and Private Security Agencies Act and Board rules and to sanction persons who fail to comply with these requirements.

House Bill 2617 continues the Board for ten years and contains several statutory changes to improve the effectiveness of the agency in protecting the public. The bill strengthens the requirements for persons in this high-risk industry to receive criminal history checks and restructures the Board to improve oversight of the agency. The bill also authorizes the agency to commission its investigators as peace officers, renames the agency and its enabling statute, restructures regulatory fees, expands the exemption from regulatory requirements for peace officers, and specifies when political subdivisions can provide alarm monitoring services without a license.

Major Bill Provisions

1. Strengthen Requirements for Criminal History Checks.
2. Restructure the Board to Improve Its Performance and Accountability.
3. Expand and Strengthen the Board's Regulatory Responsibilities.
4. Update and Standardize Registration and Training Requirements.
5. Strengthen Enforcement by Clearly Authorizing Administrative Penalties and by Making Enforcement Data More Accessible.
6. Streamline the Agency's Licensing and Registration Process.
7. Transfer the Agency's Administrative Hearings to the State Office of Administrative Hearings.
8. Specify When Political Subdivisions May Provide Alarm Monitoring Services Without a License.
9. Expand the Exemption from Regulatory Requirements for Peace Officers.
10. Authorize the Agency to Commission Its Employees as Peace Officers.
11. Change the Name of the Agency to the Texas Commission on Private Security.
12. Continue the Agency for 10 Years.

Major Bill Provisions

1. Strengthen Requirements for Criminal History Checks.

- A. Require all applicants to submit to state and federal criminal history checks.**
- B. Update and clarify minimum statutory requirements for persons seeking licensure and registration with the Board.**
- C. Designate the Board as a criminal justice agency.**

The bill reflects the Sunset recommendation to strengthen requirements for criminal history checks. The bill makes unarmed security guards subject to the same background checks as currently required for other registrants. As part of this provision, the Department of Public Safety is authorized to establish a pool of all applicants denied registration by the Board based on past criminal activities.

The Legislature adopted, with modification, the Sunset recommendation to remove discretion from the Board to license or register persons convicted of more serious crimes and to remove vague statutory language that disqualified persons from licensure or registration because of crimes of moral turpitude. The Legislature adopted the Sunset recommendation to prohibit persons convicted of a felony or a Class A misdemeanor from working in the regulated industry and to prohibit persons convicted of a Class B misdemeanor from working in this area for at least five years after conviction, or more if the Board determines necessary. However, the Legislature added language to allow the Board to waive these requirements when deciding on applications from persons convicted more than 20 years previously if it is determined they no longer pose a threat to public safety.

Finally, the bill expedites the licensure process by allowing the agency to directly access federal criminal history information from the National Criminal Information Center (NCIC). This provision designates the agency as a criminal justice agency for the limited purpose of conducting FBI/NCIC background checks for all applicants with the Board.

2. Restructure the Board to Improve Its Performance and Accountability.

- A. Add two public members and one industry member to the Board and remove the ex-officio position for the Office of the Attorney General.**
- B. Require the Board to provide policy direction to agency management on how the agency will carry out its statutory responsibilities.**

The Legislature adopted the Sunset recommendation to expand and restructure the Board. Specifically, the bill changes the Board size from eight to ten members composed of five public members, four industry members, and the Executive Director of DPS or a designee serving as an ex-officio member. One each of the industry members would represent security guards, private investigators, and alarm system interests. The remaining industry member would represent the entire private investigations and private security services industry.

3. Expand and Strengthen the Board's Regulatory Responsibilities.

- A. Eliminate the exemption from the Act for employees who provide security services for their employers.**
- B. Clarify exemptions from regulation under the Act for attorneys.**
- C. Increase the penalty for persons who act as bounty hunters without a license.**

The Legislature adopted, with modification, the Sunset recommendation to expand and strengthen the Board's regulatory responsibilities. The Legislature expanded the original Sunset recommendation to require regulation of all entities that are open to the public and that employ uniformed security guards. The original Sunset recommendation had specifically exempted a farm or private land owner from regulation under the Act. The bill requires the Board to perform criminal background checks on uniformed security employees of these employers, ensures that security managers or supervisors of these employers are qualified to perform

their duties, and ensures that these employers carry the required level of liability insurance.

The bill also clarifies the provision currently in law that allows an attorney to be exempt from licensure while engaged in the practice of law instead of simply for performing his duties. In addition, the bill increases the penalty to a state jail felony for persons who serve warrants, without a license, to individuals who have skipped bail.

4. Update and Standardize Registration and Training Requirements.

- A. Improve firearm training requirements for commissioned security officers.**
- B. Require applicants to be examined on their knowledge of applicable laws.**
- C. Reduce the registration period for regulating unarmed security guards from four years to two years.**

The Legislature generally adopted the Sunset recommendation to update and standardize registration and training requirements. The bill updates firearm training requirements for armed guards. Applicants for commissioned security officer positions now must satisfy the requirements of the Concealed Handgun Weapons Training Qualification Act, as administered by DPS, before they can be commissioned by the Board.

The bill also requires that license applicants or their managers, and applicants for security officer commissions, demonstrate by examination knowledge of applicable state laws and Board rules. As part of this provision, the agency is required to develop and provide necessary materials to these applicants and subsequently test them.

Finally, the Sunset bill reduces the registration and renewal period for non-commissioned or unarmed security guards from four to two years and reduces the registration fee for these persons from \$50 to \$25. In addition, to offset potentially significant revenue loss from reducing the unarmed guard registration fee, the Legislature added a provision that increases the limits set in statute on certain licensing and registration fees. The Legislature also removed statutory language that allowed for regulatory fees to be set in the General Appropriations Act.

5. Strengthen Enforcement by Clearly Authorizing Administrative Penalties and by Making Enforcement Data More Accessible.

- A. Clarify the agency's authority to levy administrative fines and provide the standard criteria for applying these fines.**
- B. Require the agency to make enforcement information more accessible to the public and consumers.**

The Legislature adopted the Sunset recommendation to strengthen the agency's enforcement and customer service functions. The bill authorizes the Board to apply administrative penalties against violators of the statute and Board rules. The bill provision broadens the application of these penalties so that the penalties may be used within a range of sanctions available to the agency to achieve compliance. In addition, the bill requires the agency to develop a more efficient and accessible method of communicating regulatory information, such as through its Internet website or a toll-free telephone number.

6. Streamline the Agency's Licensing and Registration Process.

- A. Eliminate requirements to notify law enforcement officials regarding applications for licensure.**
- B. Eliminate requirements for letters of termination and allow individuals to transfer to another employer without resubmitting an application.**
- C. Provide means for electronic fund transfer for fee and fine payments.**

The Legislature adopted, with minor modifications, the Sunset recommendations to streamline the agency's business processes. The bill allows the agency to process applications without having to seek input from local law enforcement officials regarding the fitness of the applicant for the job. The Legislature expanded this provision to also eliminate the requirement for the agency to notify DPS about all applications for licensure.

The bill allows unarmed security guards to change employers without having to submit letter of terminations from their former employers. The bill also allows all registrants with the Board to transfer to a similar position with another employer without having to go through the entire registration process with the agency. In addition, the bill allows the agency to accept regulatory fees and fines through electronic means, such as electronic fund transfers and credit cards.

7. Transfer the Agency's Administrative Hearings to the State Office of Administrative Hearings.

The Legislature adopted the Sunset recommendation to make the hearing process more effective for all participants by transferring the agency's Administrative Procedures Act Hearings to the State Office of Administrative Hearings.

8. Specify When Political Subdivisions May Provide Alarm Monitoring Services Without a License.

The Legislature added a provision to the Sunset bill prohibiting political subdivisions with a population of 50,000 or more from offering alarm system sales, service, installation, or monitoring services unless:

- these services are provided on property owned by the political subdivision or another political subdivision;
- monitoring is conducted as part of an ongoing criminal investigation;
- a Federal Deposit Insurance Corporation member financial institution requests in writing that the political subdivision provide these monitoring services; or
- the political subdivision has, since September 1, 1999, monitored residential alarm sites and any fees charged by the political subdivision do not exceed the cost of the monitoring.

The provision also prohibits political subdivisions from advertising or soliciting monitoring services. Municipalities with a population of less than 50,000 are not covered by this provision and could thus offer alarm sales, service, installation, and monitoring services.

The Legislature, in a separate bill relating to fire alarm services, amended the language of the Sunset bill as it had passed the Legislature. This bill, House Bill 3189, contains largely the same provisions regarding permissible activities of political subdivisions, except it increases the size of political subdivisions that can sell, service, install, or monitor alarm systems without being subject to the agency's regulations. Specifically, this bill exempts from agency's regulations political subdivisions in counties with a population of less than 80,000 or political subdivisions where alarm monitoring services are not otherwise provided or available.

9. Expand the Exemption from Regulatory Requirements for Peace Officers.

The Legislature added a provision to exempt from the agency's regulation peace officers who work full-time as Extra Job Coordinators for the State or a municipality and who schedule security guard jobs for other peace officers employed by the State or a municipality.

10. Authorize the Agency to Commission Its Employees as Peace Officers.

The Legislature added a provision to allow the agency to commission its investigators as peace officers for the limited purpose of enforcing the agency's enabling statute. This bill provision also makes these persons eligible for retirement benefits from the law enforcement retirement program.

11. Change the Name of the Agency to the Texas Commission on Private Security.

The Legislature added a provision to change the name of the agency. As part of this name change, the agency's statute is renamed as the Private Security Act.

12. Continue the Agency for 10 Years.

The Legislature continued the agency for 10 years, instead of the four-year period recommended by the Sunset Commission. This change will put the agency's review with other public safety agencies such as Department of Public Safety and the Texas Commission on Law Enforcement Officers Standards and Education.

Fiscal Impact

Overall, implementation of the provisions in the final Sunset bill is expected to result in a net positive impact of approximately \$100,000 annually to the General Revenue Fund.

Net savings each year of approximately \$45,000 will result from various provisions of the bill. Specifically, savings from eliminating the requirement to notify law enforcement officials will more than offset costs incurred in changing the size of the Board and transferring the agency's administrative hearing function to the State Office of Administrative Hearings.

In addition, a net revenue gain each year of approximately \$55,000 will result from various provisions of the bill. Specifically, revenue gains from increasing fees charged by the agency, expanding the agency's regulatory authority, and providing for reciprocal agreements with other states and provisional licenses and registrations to persons from other states will more than offset reductions in revenue from expanding the exemption from registration requirements for peace officers and reducing registration fees for unarmed security guards.

The following table reflects the net fiscal implications of the bill to the General Revenue Fund for the first five years following the effective date of the bill.

Five-Year Impact	
Fiscal Year	Gain to General Revenue
2000	\$100,000
2001	100,000
2002	100,000
2003	100,000
2004	100,000

Other Agencies

Advisory Commission on State Emergency Communications

Staff Contact: Steve Hopson

H.B. 1983 Bosse (Madla)
H.B. 1984 Bosse (Madla)

Summary

The Advisory Commission on State Emergency Communications assists local governments in providing 911 telephone service and, in partnership with the Texas Department of Health, operates the State's poison control information telephone network. The Commission's 911 services are provided through regional councils of governments (COGs), which mainly serve the rural areas of the state. The Commission has no authority over cities and Emergency Communication Districts that provide 911 services outside the system.

In recognition of the need for the functions that the Commission performs, House Bill 1983 continues the Commission for 12 years. The bill also restructures the Commission to better support its functions and provide public representation, restructures the funding of the State's 911 program to improve accountability and strategic planning, and improves the collection of emergency communication fees. In addition, the Legislature added a provision to provide Poison Control Centers with automatic name and location information of callers.

The Sunset review of the Advisory Commission on State Emergency Communications resulted in a recommendation to allow Emergency Communication Districts to voluntarily consolidate. Since these districts are governed by a different statute than the Advisory Commission, a separate bill was necessary to implement the Sunset Commission's recommendation. As a result, House Bill 1984 allows districts to voluntarily consolidate and also streamlines their budget approval process.

Major Bill Provisions

1. Continue the Commission for 12 Years and Assign it the Role of Speaking for the State's 911 System.
2. Restructure the Commission's Membership.
3. Move the State's 911 Funds into the Treasury.
4. Improve Collection of the State's Emergency Communication Fees.
5. Provide Poison Control Centers with Automatic Name and Location Information of Callers.
6. Permit Emergency Communication Districts to Voluntarily Consolidate.
7. Streamline Budget Approval Procedures for Emergency Communication Districts.

Major Bill Provisions

1. Continue the Commission for 12 Years and Assign it the Role of Speaking for the State's 911 System.
-

- A. Continue the Advisory Commission on State Emergency Communications for 12 years.**
- B. Change the name of the agency to the Commission on State Emergency Communications.**
- C. Assign the Commission the role of coordinating statewide information on 911.**

The Legislature adopted the Sunset recommendations to continue the Commission and change its name to reflect its mission as more than merely advisory. The Legislature also agreed with Sunset to make the Commission responsible for coordinating 911 information among the 75 separate 911 entities in the state in proceedings, such as before the Public Utility Commission or Federal Communications Commission.

-
2. Restructure the Commission's Membership.
-

- A. Reduce the size of the Advisory Commission on State Emergency Communications from 16 to nine members plus three non-voting ex officio members.**
- B. Restructure the Commission's membership as follows:**

- remove the three members representing the largest local telephone service providers;
- replace the Executive Director of the major association representing regional planning commissions with a board member of a council of governments;
- remove the representatives of the Department of Public Safety and the Criminal Justice Policy Council;
- provide that the representative of the Department of Health serves as a non-voting ex officio member;

- add the Executive Director of the Public Utility Commission, or a designee, as a non-voting ex officio member;
- add the Executive Director of the General Services Commission, or a designee, as a non-voting ex officio member;
- specify that the representative of a municipal government must be from a home-rule city with a pre-existing 911 system;
- retain the representative of a county government;
- retain the representative of an Emergency Communication District; and
- specify that five members represent the general public, with one appointed by the Governor and two each appointed by the Lieutenant Governor and the Speaker.

The Legislature adopted the Sunset recommendation to reduce and restructure the Commission's composition thus allowing for more efficient policymaking.

-
3. Move the State's 911 Funds into the Treasury.
-

- A. Require local exchange service providers to remit revenue from the Emergency Service Fee to the Commission.**
- B. Require the deposit of all revenues from the Emergency Service Fee and Wireless Service Fee to a dedicated account in the State Treasury for distribution by the Commission to 911 entities.**
- C. Specify that all 911 fees are subject to the legislative appropriations process.**
- D. Clarify that regional plans submitted to the Commission by Councils of Governments include:**
 - two years of projected financial operating information, and
 - five years of strategic planning information.
- E. Require the Commission to biennially prepare a statewide 911 strategic plan based upon information provided in regional strategic plans**

and from information voluntarily submitted by emergency communication districts and cities with pre-existing systems.

- F. **Require the Commission to contract with Councils of Governments for 911 services, based upon a regional biennial operating plan.**
- G. **Limit Councils of Governments to spending no more than 10 percent of their 911 funds on indirect administrative costs.**

The Legislature adopted the Sunset Commission recommendation to simplify 911 funding by requiring the remittance of all 911 fee revenue to the State Treasury instead of to 24 separate COG regional accounts. By subjecting all State 911 funds to the appropriations process, the bill gives the Legislature greater control over how the funds are spent.

To ensure 911 revenue is used only for the 911 program, these funds are placed in a dedicated account in the State Treasury. Further, the dedicated fund is not subject to statutory provisions permitting the consolidation of funds or the sweeping of fund balances.

The Legislature also adopted the Sunset Commission recommendations to improve the regional planning process and require the Commission to contract with COGs for 911 services. These changes increase accountability and long-range planning for the State's 911 system and will help the Legislature make decisions regarding the future of the State's 911 program. The Legislature added provisions allowing districts and cities to voluntarily submit information for use in the statewide 911 strategic plan and limiting the percentage of 911 funds COGs can use for indirect costs.

4. Improve Collection of the State's Emergency Communication Fees.

- A. **Require telephone companies to remit the Emergency Service Fee, 911 Equalization Surcharge, and Poison Control Surcharge to the State within 30 days of collection.**
- B. **Reduce the administrative fee retained by telephone companies for the collection of all emergency communication fees from 2 to 1 percent.**
- C. **Transfer responsibility to audit telephone companies for proper remittance of emergency fees to the Comptroller of Public Accounts.**

D. **Transfer responsibility to assess and collect late payment penalties to the Comptroller of Public Accounts.**

The Legislature adopted the Sunset Commission recommendations to improve the collection of the State's 911 and poison control fees. The bill maximizes the State's emergency communications revenues by ensuring that all fees are remitted in a timely manner with an appropriate administrative service fee. Assigning responsibility for auditing of the fees to the Comptroller provides greater assurance that the fees are properly collected and remitted. Transferring authority to enforce late payment penalties to the Comptroller's Office also helps ensure better collection of fines.

5. Provide Poison Control Centers with Automatic Name and Location Information of Callers.

The Legislature added a provision to make telephone user name and address information confidential when provided to a Poison Control Center. This change further specifies that telephone companies are not liable for release of this information. These changes clear legal hurdles that have prevented Poison Centers from automatically receiving the name and location of callers.

6. Permit Emergency Communication Districts to Voluntarily Consolidate.

In House Bill 1984, the Legislature adopted the Sunset Commission's recommendation to permit districts to voluntarily consolidate. While several districts currently provide 911 services to multi-county areas, these districts were created to cover these jurisdictions and did not acquire the additional area through consolidation. The bill establishes standardized procedures for districts wishing to consolidate including requirements for districts to hold an election, publicly devise a consolidation plan including provisions for debts and new board membership, and determine governance of the newly consolidated district. This change allows districts to reduce administrative redundancies by joining together.

7. Streamline Budget Approval Procedures for Emergency Communication Districts.

The Legislature added a provision to House Bill 1984 that sets time frames for Emergency Communication Districts in counties with populations under 860,000 to have their budgets approved. Current law requires each

district to submit its budget to the commissioners court of each county and the governing body of each municipality in the district. This added provision requires a district to submit its budget not later than the 45th day before the district's governing board adopts the budget. The provision also states that a district's budget is automatically approved if it is not approved or disapproved by the county and municipal governing bodies before the 61st day after submission.

Fiscal Impact

House Bill 1983 resulted in no net fiscal impact to the General Revenue Fund for the biennium ending August 31, 2001. However, the bill provides a one-time gain to the 911 Services Fee Account, created in the bill, of about \$1.8 million in the first year due to the reduction in the administrative fee paid by the State to telephone companies, a shortening of the time telephone companies are permitted to hold the emergency services fees before remitting them to the State, and a change in the timing of how the Councils of Governments are given funds for 911 services. The two timing changes together mean that the State will actually accrue 14 months of 911 payments in FY 2000, but will only pay out 12 months of funds. In subsequent years, annual revenue gains of more than \$194,000 to the 911 Services Fee Account will result from the reduced administrative fees paid to telephone companies.

The bill also provides the Emergency Communications Account an additional revenue gain of about \$1.5 million in the first year due to the reduction in the administrative fee, the shortening of the remittance period for telephone companies, and the change in the timing of how COGs are given 911 funds. These changes are similar to those of the 911 Services Fee Account as explained above. In subsequent years, annual revenue gains of more than \$173,000 to the Emergency Communications Account will result from the reduced administrative fees paid to telephone companies.

To implement the formal contracting and contract monitoring processes for the 911 services provided by COGs required by the bill, the Commission needs three additional employees. The cost of these employees is a cost to the Emergency Communications Account, from which the Commission pays its administrative expenses. Partially offsetting this cost is a savings to the Commission of about \$58,500 due to the bill provision transfers auditing responsibilities to the Comptroller of Public Accounts.

The following chart reflects the net fiscal implications of the bill to the Emergency Communications Account and the 911 Services Fee Account, both of which are dedicated accounts in the General Revenue Fund, for the first five years following the effective date of the bill.

Five-Year Impact			
Fiscal Year	Gain to Emergency Communications Account	Gain to 911 Services Fee Account	Change in Number of State Employees from FY 99
2000	\$1,461,978	\$1,774,000	3.0
2001	104,978	194,000	3.0
2002	110,978	194,000	3.0
2003	116,978	194,000	3.0
2004	122,978	194,000	3.0

Texas Hospital Equipment Financing Council

Staff Contact: Colin Coe

S.B. 356 Zaffirini (Gray)

Summary

In 1983, the Legislature created the Texas Hospital Equipment Financing Council to provide low-cost loans to public and private hospitals, especially in rural areas, for the purchase of hospital equipment. Because of economic problems with the targeted groups, the Council never enjoyed the success its proponents envisioned. In 1989, the Legislature limited the Council to ensuring the validity and enforceability of all outstanding bonds was maintained. The bonds that were outstanding on September 1, 1989 have been paid, and the Council no longer serves a needed purpose. While the Council is abolished without legislation, Senate Bill 351 removes from the statutes all references to the Council.

Fiscal Impact

Abolishing the Council has no fiscal impact to the State because the Hospital Equipment Financing Council receives no state funding. All outstanding bonds have been redeemed.

Texas Commission on Human Rights

Staff Contact: Lisa Mogil

H.B. 1976 Bosse (Madla)

Summary

The Texas Commission on Human Rights enforces state equal employment opportunity (EEO) and fair housing laws that prohibit discrimination on the basis of factors such as race, sex, age, religion, national origin, and disability status. The Commission investigates and resolves complaints as an alternative to litigation, and provides training and technical assistance to state agencies and private businesses on federal and state anti-discrimination laws.

House Bill 1976 continues the Commission on Human Rights for 12 years and contains several statutory changes. Specifically, the bill improves the Commission's ability to process and investigate employment and housing discrimination complaints by strengthening public outreach and investigation training. The bill also clarifies, in statute, the Commission's responsibilities for providing technical assistance and training to state agencies in EEO matters to avoid the occurrence of discriminatory employment practices. Finally, the bill ensures that all public employees regardless of the size of their employer have the same opportunity to obtain compensatory relief if they have suffered employment discrimination.

Major Bill Provisions

1. Enhance the Commission's Public Outreach and Investigator Training Efforts.
2. Strengthen the Commission's Technical Assistance and Training Roles.
3. Ensure Compensatory Relief for All Public Employees Who Suffer Employment Discrimination.
4. Continue the Texas Commission on Human Rights for 12 Years.

Major Bill Provisions

1. Enhance the Commission's Public Outreach and Investigator Training.

- A. Require the Commission to make information more accessible to the public.**
- B. Require the Commission to develop plain-language material about its complaint resolution process.**
- C. Require all newly-hired investigators to complete a formal training curriculum before conducting investigations.**
- D. Require all investigators to complete an annual training update.**
- E. Require the Commission to develop an investigation procedural manual to be updated biennially.**

The Legislature adopted the Sunset Commission recommendations that improve the Commission's public outreach and investigator training efforts. Specifically, the Sunset bill requires the Commission to establish a toll-free telephone service and to enhance its Internet website to better inform the public about its complaint resolution process. The Commission must also make available equivalent public information and outreach services for persons with disabilities.

The bill also requires new investigators to receive formal training and current investigators to undergo periodic re-training to supplement the Commission's current training efforts. Additionally, the Commission must develop an investigation procedural manual that assists investigators in doing their job.

2. Strengthen the Commission's Technical Assistance and Training Roles.

- A. Require the Commission to conduct annual workforce analyses of state agencies and public universities.**
- B. Require the Commission to establish a technical assistance program on equal employment**

opportunity laws for state agencies and public universities.

- C. Require the Commission to provide comprehensive equal employment opportunity training to all state agencies and public universities.**
- D. Require the Commission to collect and report statewide data on illegal discriminatory activity in the State.**

The Legislature adopted the Sunset Commission recommendations to codify the EEO provisions from riders in the General Appropriations Act. Specifically, the bill requires the Commission to compile workforce information by job classification for women and minorities in state agencies and public universities. The bill also expands current rider language to require the Commission to compile workforce information for persons with disabilities and to provide detailed analyses and studies of the State's workforce. Additionally, the Commission must collect and report detailed information on employment and housing discrimination complaints from state, federal, and local commissions.

The Legislature modified the Sunset Commission recommendation regarding the Commission's review of state agencies' personnel policies and procedures. The bill reflects the Sunset recommendation requiring the Commission to review these policies on a six-year cycle. However, instead of requiring agencies to implement the Commission's revisions to their personnel policies, the Legislature gave them the option to implement or to reject the Commission's revisions as long as they provide reasons for rejecting the Commission's recommendation. The Legislature also removed the cap of \$5,000 that the Commission could charge agencies for these reviews. Instead, the Commission is required to charge agencies for the actual costs of performing the review, as determined by the State Auditor's Office. In addition, the Legislature clarified that a recruitment plan by a state agency must recruit "qualified" women and minorities.

The Legislature also modified the Sunset Commission recommendation regarding the Commission's EEO training to state agencies. The bill reflects the Sunset recommendation requiring state agencies and public universities to submit to EEO training if they receive three meritorious discrimination complaints in one year. The Legislature modified this provision to allow state agencies to provide their own EEO compliance training if they meet the Commission's minimum standards.

-
3. Ensure Compensatory Relief for All Public Employees Who Suffer Employment Discrimination.
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Specify that compensatory damages, already allowed under the Texas Commission on Human Rights Act, apply to all governmental entities, regardless of size.

The Legislature adopted the Sunset Commission recommendation that gives public employees at small government entities the right to seek compensatory damages similar to public employees at large governmental entities. Specifically, the bill extends compensatory damages, up to \$50,000, to public employees of governmental entities with fewer than 15 employees.

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4. Continue the Texas Commission on Human Rights for 12 Years.
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The Legislature adopted the Sunset Commission recommendation to continue the Commission on Human Rights for 12 years.

Fiscal Impact

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

Texas Incentive and Productivity Commission

Staff Contact: Jennifer Jones

S.B. 355 Harris (Bosse)

Summary

The Legislature created the Texas Incentive and Productivity Commission (TIPC) in 1989 to administer two employee involvement programs that target and reward efficient, cost-saving government practices. The programs encourage the development of productive and innovative state agencies and employees by recognizing and rewarding state employees for their efforts to save money, increase revenues, and improve services.

Senate Bill 355 continues TIPC for four years and contains several statutory changes to simplify Texas' approach to employee involvement programs. The Legislature agreed with the Sunset Commission recommendations to create a single employee incentive program and to recognize and reward all aspects of employee involvement, including efforts for which quantifiable savings cannot be determined. The Legislature also adopted the Sunset Commission's recommendation to restructure the Commission's membership and current method of finance. Restructuring will allow participating agencies to retain the majority of any realized savings and allow TIPC to focus on administering and promoting participation in its programs.

Major Bill Provisions

1. Create a Single Employee Involvement Program.
2. Restructure TIPC's Method of Finance and Membership, and Re-evaluate in Four Years.
3. Authorize a \$50 Employee Recognition Award.

Major Bill Provisions

1. Create a Single Employee Involvement Program.

Abolish the Productivity Bonus Program and maintain, within the State Employee Incentive Program, the function of recognizing and rewarding teams, divisions, or entire agencies for reducing agency costs without reducing service quality.

The Legislature adopted the Sunset Commission's recommendation to simplify Texas' approach to employee involvement programs by merging the main elements of PBP into SEIP, thus creating a single employee incentive program. This program will recognize all aspects of employee involvement. Abolishing PBP eliminates an ineffective program and will allow the Commission staff to focus on increasing the effectiveness and efficiency of SEIP.

Senate Bill 355 also eliminates delayed hiring as an eligible suggestion for receiving a bonus award. The Legislature agreed with the Sunset Commission's conclusion that practices such as delayed hiring are inherent in state agency operations and should not be eligible for a special monetary award.

2. Restructure TIPC's Method of Finance and Membership, and Re-evaluate in Four Years.

A. Simplify the savings transfer and allocation process by:

- allowing agencies to retain all savings except for the portion used for suggestion awards, and
- funding TIPC operations through a more stable funding source without a transfer from allocated savings.

B. Restructure the membership of the Commission by:

- replacing the position of the Texas Workforce Commission (formerly the Texas Employment Commission) Agency Administrator with a Governor-appointed agency director from an agency with more than 1,000 FTEs;

- replacing the position formerly held by the State Treasurer with a Governor-appointed agency director from an agency with fewer than 1,000 FTEs; and
- requiring that these agency director positions have two-year terms, with the term of one member expiring in February of each even-numbered year and the term of the remaining member expiring in February of each odd-numbered year.

C. Prohibit TIPC staff from participation in the Commission's programs.

D. Continue the Texas Incentive and Productivity Commission for a four-year period to allow for a re-evaluation once barriers to participation have been removed.

The Legislature adopted the Sunset Commission's recommendation to simplify TIPC's savings transfer and allocation process by eliminating the complicated formulas for distribution of savings. Removing these formulas eliminates TIPC's current method of finance and requires the agency to be funded by another source. The Legislature chose to fund TIPC through the General Revenue Fund.

Elimination of the allocation process will also allow agencies participating in TIPC's programs to retain the majority of any realized savings, thus increasing the incentive to participate. Participating agencies will be able to reinvest the savings internally according to their budgetary needs instead of transferring the majority of the savings to TIPC and the originating fund.

The Legislature also adopted the Sunset Commission's recommendation to restructure the Commission membership to include two Governor-appointed agency representatives to improve coordination and provide expertise on the implementation of TIPC's operations within state agencies. The bill also prohibits the staff of the Commission from participating in its own programs, eliminating any appearance of a conflict of interest.

The bill continues TIPC's functions for four years to allow the Legislature time to determine whether changes made to remove the inherent barriers to participation actually result in broader program participation and increased savings.

3. Authorize a \$50 Employee Recognition Award.

- A. Authorize a \$50 recognition award for suggestions that improve state government, but for which the actual savings cannot be measured.
- B. Specify that any such recognition award must be approved and awarded by the Texas Incentive and Productivity Commission and that this function may not be delegated to the Commission's staff.

The Legislature agreed with the Sunset Commission's recommendation to authorize the Commission to grant a \$50 recognition award to an eligible state employee who makes a suggestion that is not otherwise eligible for a financial award. For example, the suggestion may conserve energy, enhance safety, improve customer service, or result in the adoption of any other innovation or improvement that is approved by the Commission. A maximum of 150 of these awards may be granted each fiscal year by the Commission.

Fiscal Impact

Currently, agencies participating in the Texas Incentive and Productivity Commission's programs must transfer a portion of the money saved to TIPC to fund the Commission's operations. This bill eliminates this transfer provision, requiring the agency to be funded by another source. The Legislature chose to fund TIPC with General Revenue funds. The agency's appropriation for each year of the 2000-2001 biennium is \$222,872.

This bill also gives the agency the authority to provide awards of \$50 to participants whose suggestions do not have quantifiable savings. The bill specifies that no more than 150 recognition awards can be granted in any fiscal year. This provision will cost a maximum of \$7,500 per year, if the maximum number of awards are approved.

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

Five-Year Impact	
Fiscal Year	Loss to General Revenue Fund
2000	(\$230,372)
2001	(230,372)
2002	(230,372)
2003	(230,372)
2004	(230,372)

Across-the-Board Recommendations

Across-the-Board Recommendations

This section of the report briefly describes each of the Sunset across-the-board recommendations, with a chart detailing the application the ATBs to each of the agencies currently under review for the 76th Legislature.

Across-the-board recommendations (ATBs) are statutory administrative policies adopted by the Sunset Commission that contain “good government” standards for state agencies. These policies are an outgrowth of the Sunset review criteria as set out in the Sunset Act and have resulted from recurring problem areas identified through almost 300 Sunset reviews. The ATBs are designed to ensure open, responsive, and effective government.

The across-the-board recommendations are applied to every state agency reviewed by the Sunset Commission, unless a clear reason to exempt the agency is identified. Some Sunset ATBs address policy issues related to an agency’s policymaking body, such as requiring public membership on boards or allowing the Governor to designate the chair of a board. Other Sunset ATBs require agencies to set consistent policies in areas such as how to handle complaints and how to ensure public input. Another set of ATBs deals exclusively with licensing standards and are applied only to agencies with regulatory functions.

General Across-the-Board Recommendations

1. Public Membership — Require at least one-third public membership on state agency policymaking bodies.

The purpose of government is to protect the health, welfare and safety of the public. However, some agencies do not have public members on their boards. Boards consisting only of members from a regulated profession or group affected by the activities of an agency may not respond adequately to broad public interests. This potential problem can be addressed by giving the general public a direct voice in the activities of the agency through representation on the Board. The

requirement that at least one-third of the members be representatives of the general public ensures appropriate representation.

2. Conflicts of Interest — Require specific provisions relating to conflicts of interest.

An agency may develop close ties with professional trade organizations and other groups that may not be in the public interest. Conflicts of interest can also result when board or commission members or an agency’s general counsel are involved in lobbying. This guideline reduces the possibility of such a conflict. These provisions are necessary to prevent these kinds of relationships from developing.

3. Nondiscriminatory Appointments — Require that appointment to the policymaking body be made without regard to the appointee’s race, color, disability, sex, religion, age, or national origin.

State agencies must be fair and impartial in their operations. The achievement of this goal is aided by the existence of policymaking bodies whose appointees have been chosen on an impartial and unbiased basis.

4. Governor Designates Presiding Officer — Provide for the governor to designate the presiding officer of a state agency’s policymaking body.

Presiding officers of state commissions and boards in Texas have traditionally been elected by their fellow members. In an effort to increase state agencies’ accountability, the legislature has routinely authorized the Governor to appoint the presiding officer of state policymaking bodies.

5. Grounds for Removal — Specify grounds for removal of a member of the policymaking body.

Several of the preceding across-the-board provisions set out appointment requirements for board or commission members (e.g., conflict-of-interest requirements). This provision directly specifies that grounds for removal of a board or commission member exist if these requirements are not met. In addition, the

provision clarifies that if grounds for removal exist, actions taken by the board or commission during the existence of these grounds are still valid.

6. Standards of Conduct — Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.

This recommendation ensures that an agency's policymaking body and employees are informed of provisions in state law concerning standards of conduct for state officers and employees.

7. Board Member Training — Require training for members of policymaking bodies.

Members of state boards and commissions should be provided with adequate information and training to allow them to properly and effectively discharge their duties. This provision ensures that appropriate training is provided before an appointee actively begins serving on a board or commission.

8. Separation of Functions — Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.

This recommendation establishes the executive director/administrator as the individual in charge of managing the agency's day-to-day activities. It removes the possibility of the policymaking body administering the agency in addition to setting agency policy.

9. Public Input — Provide for public testimony at meetings of the policymaking body.

This requirement ensures the opportunity for public input to the policymaking body on issues under its jurisdiction.

10. Complaint Information — Require information to be maintained on complaints.

The Sunset review process has shown that complete and adequate information about complaints is maintained by some agencies. This recommendation ensures that, at a minimum, files are developed and maintained on all complaints. This provision would also ensure that all parties to a complaint are made aware of the status of the complaint and agency policies and procedures pertaining to complaint investigation and resolution.

11. Equal Employment — Require development of an equal employment opportunity policy.

This recommendation ensures that each agency develops a written, comprehensive equal employment opportunity plan that is filed with the Governor's Office and updated annually. Agency efforts in this area are further enhanced by requiring the agency to file annual progress reports with the Governor's Office.

Licensing Across-the-Board Recommendations

1. Renewal Time Frames — Require standard time frames for licensees who are delinquent in renewal of licenses.

Variations occur among licensing agencies in requirements concerning the number of days a license renewal may be delinquent before penalties are brought into effect. This provision is aimed at ensuring comparable treatment for all licensees, regardless of their regulated profession. This provision also clarifies that a person whose license has expired may not engage in activities that require a license until the license has been renewed.

2. Notification of Exam Results — Provide for timely notice to a person taking an examination of the results of the examination and an analysis, on request, to individuals failing the examination.

This provision ensures the timely reporting of examination results. The timely notification is important to those persons whose future plans are contingent on their examination scores. This provision also ensures that examinees are informed of the reasons for failing the examination. Such knowledge serves to protect the examinee from arbitrary restrictions, as well as assisting the examinee to acquire the skills and knowledge to pass the exam and provide the public with quality services.

3. Endorsement and Reciprocity — Authorize agencies to establish a procedure for licensing applicants who hold a license issued by another state.

Agencies should be allowed to establish a procedure to license out-of-state applicants without examination if the applicant is currently licensed by another state. This policy protects the public interest, imposes uniform requirements on all applicants, and spares the already-licensed practitioner the cost and time required in “retaking” an examination previously passed in another state.

Two approaches to licensing out-of-state applicants are endorsement and reciprocity. Licensure by endorsement requires the licensing agency to review each applicant’s credentials before issuing a license to determine if the applicant was required to meet substantially equivalent requirements in another state. Licensure by reciprocity allows the licensing agency to enter into a reciprocal agreement with another state under which each state will accept the other state’s licensees. These licensing approaches are not mutually exclusive and, if appropriate, agencies could be authorized to use both approaches.

4. Provisional Licenses — Authorize agencies to issue provisional licenses to license applicants who hold a current license in another state.

Provisional licenses allow license applicants who hold a license in another state to practice in Texas while their credentials are being evaluated. Provisional licenses can be issued only if the individuals meet certain requirements such as passing a recognized examination and being sponsored by a Texas licensee.

5. Staggered Renewal of Licenses — Authorize the staggered renewal of licenses.

This type of provision encourages the periodic renewal of licenses rather than requiring the renewal of all licenses at one particular time each year. The staggering procedure improves the efficient utilization of agency personnel by establishing a uniform workload throughout the year and eliminating backlogs in licensing efforts and the need for seasonal employees.

6. Full Range of Penalties — Authorize agencies to use a full range of penalties.

As a general principle, an agency’s range of penalties should conform to the seriousness of the offenses presented to the agency. However, in many cases licensing agencies are not given a sufficient range of

penalties. This provision is intended to ensure that the appropriate sanctions for offenses are available to the agency. The general range of sanctions are: revocation of a license, suspension of a license, refusal to renew a license, probation of a person whose license has been suspended, or reprimand of a licensee.

7. Advertising and Competition — Revise restrictive rules or statutes to allow advertising and competitive bidding practices that are not deceptive or misleading.

The rules of licensing agencies can be used to restrict competition by limiting advertising and competitive bidding by licensees. Such a restriction limits public access to information regarding professional services and hampers the consumer’s efforts to shop for “a best buy.” Elimination of these rules or statutes restores a degree of free competition to the regulated area to the benefit of the consumer.

8. Continuing Education — Require the policymaking body to adopt a system of continuing education.

Proper protection of the public is dependent on practitioners having a working knowledge of recent developments and techniques used in their trades. The continuing education requirement provides one proven means of ensuring such upgrading.

Application of ATBs to Agencies Currently under Review

For the agencies under Sunset review for the 76th legislative session, each of the ATBs was evaluated and applied where appropriate. If the standard approach did not fit, the Legislature either chose not to apply the ATB or the language was modified to fit the precise circumstances of an individual agency’s operations. In addition, some of the agencies under review this session had been previously reviewed and the ATB language was already in law or simply had to be updated. The following chart details the application of ATBs to agencies by the 76th Legislature.

Sunset Across-the-Board Recommendations — 1999												
	Aging, Department on*	Blind, Commission for the	Cancer Council	Childhood Intervention, Inter. Council on Early	Children's Trust Fund	Child Support Enforcement, Office of the Attorney General	Correctional Man. Health Care Advisory Committee	Criminal Justice, Department of	Deaf & Hard of Hearing, Commission for	Dev Disabilities, Office for the Prevention of		
General												
1. Public Membership	a	s	a	s	a	n/a	a	s	a	n/a		
2. Conflicts of Interest	a	a	a	a	n/a	n/a	a	a	a	a		
3. Nondiscriminatory Appointments	a	s	a	s	a	n/a	a	s	s	a		
4. Governor Designates Presiding Officer	a	s	a	a	s	n/a	a	s	s	a		
5. Grounds for Removal	a	a	a	a	a	n/a	a	s	a	a		
6. Standards of Conduct	a	a	a	a	a	a	a	s	a	a		
7. Board Member Training	m	a	a	a	a	n/a	a	a	a	a		
8. Separation of Functions	s	a	a	a	a	n/a	a	s	s	s		
9. Public Input	a	s	a	a	a	n/a	a	s	a	a		
10. Complaint Information	n/a	a	a	a	a	a	a	m	a	n/a		
11. Equal Employment	n/a	a	a	a	a	n	a	a	a	a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	a	n/a		
a=applied; u=updated; m=modified; s=already in statute; n=not adopted; n/a=not applicable												
*Also applied to the agency's successor, the Department of Aging and Disability Services												

Sunset Across-the-Board Recommendations — 1999												
	Developmental Disabilities, Planning Council	Emergency Communications, Advisory Commission	Health & Human Services Commission	Health, Department of (TDH)	TDH-Alzheimer's Council	TDH-Asbestos Licensure Advisory Board	TDH-Athletic Trainers Board	TDH-Diabetes Council	TDH-Emergency Medical Services	TDH-Lead Certification		
General												
1. Public Membership	s	a	n/a	a	n/a	n/a	a	s	n/a	n/a		
2. Conflicts of Interest	a	a	s	s	a	n/a	a	s	n/a	n/a		
3. Nondiscriminatory Appointments	a	a	s	s	a	n/a	a	a	n/a	n/a		
4. Governor Designates Presiding Officer	s	a	n/a	s	a	n/a	a	a	n/a	n/a		
5. Grounds for Removal	a	a	n/a	a	a	n/a	a	s	n/a	n/a		
6. Standards of Conduct	a	a	n/a	s	a	n/a	a	a	n/a	n/a		
7. Training	a	a	n/a	a	a	n/a	a	a	n/a	n/a		
8. Separation of Functions	a	a	n/a	s	a	n/a	a	a	n/a	n/a		
9. Public Input	a	a	s	s	a	n/a	a	a	n/a	n/a		
10. Complaint Information	a	a	a	a	a	n/a	a	a	n/a	n/a		
11. Equal Employment	a	a	a	s	n/a	n/a	n/a	n/a	n/a	n/a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	a	a	n/a	a	a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	a	s	n/a	s	a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	s	s	n/a	s	s		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	a	s	n/a	s	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	a	s	n/a	a	a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	a	a	n/a	a	a		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	a	a	n/a	a	a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	s	a	n/a	a	n/a		
a=applied; u=updated; m=modified; s=already in statute; n=not adopted; n/a=not applicable												

Sunset Across-the-Board Recommendations — 1999												
	TDH-Massage Therapy Registration	TDH-Medical Radiology Technician	TDH-Optician's Registry	TDH-Professional Medical Physicists Board	TDH-Radiation Advisory Board	TDH-Respiratory Care Practitioners	TDH-Statewide Health Coordinating Council	Hospital Equipment Financing Council	Human Rights Commission on	Human Services, Department of		
General												
1. Public Membership	n/a	n/a	n/a	a	n/a	n/a	s	n/a	s	n		
2. Conflicts of Interest	n/a	n/a	n/a	a	a	n/a	a	n/a	a	s		
3. Nondiscriminatory Appointments	n/a	n/a	n/a	a	a	n/a	a	n/a	n/a	s		
4. Governor Designates Presiding Officer	n/a	n/a	n/a	a	a	n/a	a	n/a	s	n		
5. Grounds for Removal	n/a	n/a	n/a	a	a	n/a	a	n/a	a	s		
6. Standards of Conduct	n/a	n/a	n/a	a	a	n/a	a	n/a	a	s		
7. Training	n/a	n/a	n/a	a	a	n/a	a	n/a	a	n		
8. Separation of Functions	n/a	n/a	n/a	a	a	n/a	a	n/a	a	s		
9. Public Input	n/a	n/a	n/a	a	a	n/a	a	n/a	s	s		
10. Complaint Information	n/a	n/a	n/a	a	a	n/a	a	n/a	a	s		
11. Equal Employment	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	s	s		
Licensing												
1. Time Frames	a	a	a	s	n/a	a	n/a	n/a	n/a	u		
2. Notification of Exam Results	a	a	a	s	n/a	a	n/a	n/a	n/a	s		
3. Endorsement and Reciprocity	a	s	n/a	a	n/a	s	n/a	n/a	n/a	n/a		
4. Provisional Licenses	a	a	n/a	a	n/a	s	n/a	n/a	n/a	u		
5. Staggered Renewal of Licenses	s	a	s	s	n/a	a	n/a	n/a	n/a	s		
6. Full Range of Penalties	a	s	a	a	n/a	s	n/a	n/a	n/a	s		
7. Advertising and Competition	a	a	a	a	n/a	a	n/a	n/a	n/a	n/a		
8. Continuing Education	a	a	a	a	n/a	s	n/a	n/a	n/a	s		
a=applied; u=updated; m=modified; s=already in statute; n=not adopted; n/a=not applicable												

Sunset Across-the-Board Recommendations — 1999												
	Incentive & Productivity Commission, Texas	Mental Health and Mental Retardation	Offenders with Mental Impairments, Tx. Council on	Pardons and Paroles, Board of	People with Disabilities, Committee on	Private Investigators & Private Security Agencies, Board of	Private Sector Prison Industries Oversight Authority	Public Safety, Department of	Rehabilitation Commission	Rural Health Initiatives, Center for		
General												
1. Public Membership	s	s	a	s	n/a	a	a	s	s	n/a		
2. Conflicts of Interest	a	s	a	a	a	a	a	s	a	a		
3. Nondiscriminatory Appointments	a	s	a	s	a	a	a	s	a	a		
4. Governor Designates Presiding Officer	a	s	a	s	s	a	s	s	s	a		
5. Grounds for Removal	a	s	a	s	a	a	a	m	a	a		
6. Standards of Conduct	a	s	a	s	a	a	a	a	s	a		
7. Training	a	a	a	s	a	a	a	a	a	a		
8. Separation of Functions	a	s	a	s	a	a	a	s	a	a		
9. Public Input	a	s	a	n/a	a	s	a	s	s	a		
10. Complaint Information	a	s	a	n/a	a	m	a	a	a	a		
11. Equal Employment	a	a	a	s	a	s	a	s	a	n/a		
Licensing												
1. Time Frames	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
2. Notification of Exam Results	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
3. Endorsement and Reciprocity	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
4. Provisional Licenses	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
5. Staggered Renewal of Licenses	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
6. Full Range of Penalties	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
7. Advertising and Competition	n/a	n/a	n/a	n/a	n/a	s	n/a	n/a	n/a	n/a		
8. Continuing Education	n/a	n/a	n/a	n/a	n/a	a	n/a	n/a	n/a	n/a		
a=applied; u=updated; m=modified; s=already in statute; n=not adopted; n/a=not applicable												

Appendix

Sunset Review Schedule — 2001

General Government	Aircraft Pooling Board Child Support Enforcement, Office of the Attorney General Fire Fighters' Pension Commissioner, Office of General Services Commission Pension Review Board, State
Judiciary	Judicial Conduct, State Commission on
Natural Resources	Coastal Coordination Council Energy Coordination Council, Texas Natural Resource Conservation Commission, Texas Parks and Wildlife Department, Texas Railroad Commission of Texas Soil and Water Conservation Board, State Water Development Board, Texas
Business and Economic Development	Economic Development, Texas Department of Homeless, Texas Interagency Council for the Housing and Community Affairs, Texas Department of Housing Corporation, Texas
Regulatory	Banking Commissioner, Office of Consumer Credit Commissioner, Office of Finance Commission of Texas Funeral Services Commission, Texas Savings and Loan Commissioner, Office of Securities Board, State
Human Services	Children's Trust Fund of Texas Council Prevention of Developmental Disabilities, Office for the

