



SUNSET ADVISORY COMMISSION

Summary of Sunset
Legislation
78th Legislature



July 2003

SUNSET ADVISORY COMMISSION

**SUMMARY OF SUNSET LEGISLATION
78TH LEGISLATURE**

2003

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SUMMARY



Sunset legislation will result in \$17 million in savings and revenue gains over the next two years.

The 78th Legislature continued 22 agencies and abolished two agencies as a result of the Sunset process.

Based on recommendations of the Sunset Commission, the 78th Legislature passed legislation impacting 26 state agencies and three individual programs under Sunset review. The Legislature adopted the majority of changes recommended by the Sunset Commission and added a number of significant improvements. The changes in these bills will result in more than \$17 million in savings and revenue gains over the next two years by eliminating waste, duplication, and inefficiency in state government. This report summarizes the results of the Sunset Commission's work leading up to the 78th Legislative Session, and changes made by the Legislature to modify and improve the Sunset bills.

Of the entities under Sunset review, the Legislature abolished the Texas Department of Economic Development, the Texas Aerospace Commission, and a program within the Texas Animal Health Commission that regulates riding stables. Of the remaining entities under Sunset review, the Legislature continued 22 agencies and two programs, most with significant changes. The Legislature also directed the Sunset Commission to continue evaluation of two agencies under review, the Texas Lottery Commission and the State Board for Educator Certification, by extending their Sunset date for only two years. In addition, the Legislature passed a bill, based on the Sunset Commission's groundwork, to change the makeup of 50 state boards and commissions, bringing them into compliance with a constitutional amendment requiring all boards and commissions to have an odd-number of members.

These bills, as finally passed, contain major changes to streamline state government. Several key provisions are highlighted below, and the fiscal impact of each bill is summarized in the following table.

- Abolish the Texas Department of Economic Development and the Texas Aerospace Commission and transfer their primary functions to the newly-created Texas Economic Development and Tourism Office within the Governor's Office, establishing a new structure and focus for the State's economic development efforts. Create the Texas Economic Development Bank within the Office to ensure communities and businesses have access to capital for economic development purposes. Require the Office to identify and assist industry clusters in the state, including advanced technology industries. Improve coordination among the state agencies involved in tourism activities.
- Continue the Texas Workforce Commission (TWC) for six years, and clearly separate the powers and duties of the Commissioners from the Executive Director and staff. Require TWC to partner with the business community to better equip workers and job seekers with the skills required to compete for jobs in this state. Integrate key workforce programs to streamline the delivery of services. Require TWC to establish contracting guidelines for local workforce boards. Authorize TWC to use bonds to

replenish the unemployment compensation fund and pay unemployment benefits rather than borrowing from the federal government.

- Grant the Texas Ethics Commission additional authority to conduct complaint investigations and streamline the complaint process by eliminating unnecessary steps and setting timelines for resolution. Expand the use of the Commission's electronic filing system to make more campaign finance information easily accessible to the public. Increase penalties for late-filed reports. Establish additional controls over campaign finances, such as requiring candidates and officeholders to report the job title and employer of all contributors who give more than \$500. Prohibit legislators from representing clients before state agencies and require legislators who are lawyers to report all legislative continuances.
- Establish a statutory framework for the State Bar's grievance system to streamline the process, improve accountability, promote consistency, reduce resolution time, and provide better assistance to the public. Impose a mandatory \$65 legal services fee on active members of the State Bar to provide funding for basic civil legal services for the indigent and for grants to counties for indigent defense services.
- Require the Texas Higher Education Coordinating Board to annually assess how its activities support the Higher Education Plan, *Closing the Gaps*, and report to the Legislature on statutory changes that would allow the agency to better support the plan. Require the Coordinating Board to report to the Legislature on changes to the higher education funding system that best support *Closing the Gaps*. Restructure loan forgiveness programs administered by the agency into loan repayment programs. Reduce the size of the Coordinating Board from 18 to nine members.
- Conform the statutes of several occupational licensing agencies with model licensing standards developed by Sunset staff. The licensing model standards relate to governance, licensing requirements and practices, enforcement activities, and general administrative processes.

The Sunset Commission will monitor these agencies to assess how well they implement the legislative directives in the Sunset bills. A Sunset Commission report during the next interim will detail the results of this implementation study. The State Auditor may also evaluate each agency's response to any management recommendations made to the agencies by the Commission.

The 78th Legislature also passed H.B. 2455 and other legislation that shape the Sunset review schedule for the next interim, the 2005 review cycle. The Sunset Commission will review and make recommendations on 30 agencies and programs during the next 15 months. These agencies include the Texas Lottery Commission and the State Board for Educator Certification, which were continued in their current form in H.B. 2455. Other major reviews for the 2005 cycle include the Public Utility Commission, Texas Education Agency, Texas Alcoholic Beverage Commission, Workers' Compensation Commission, and several health occupations licensing boards. Several agencies, most notably the Texas Department of Insurance and the Texas Racing Commission, were moved to later review cycles. The appendix to this report provides a complete listing of the upcoming review schedule.

78th Session Sunset Summary Information

Agency or Program	Action	Two-Year Net Fiscal Impact	Bill Author		Sunset Bill
			Senate	House	
Accountancy, Texas State Board of Public	Continued	\$460,000**	Nelson	Chisum, et al	H.B. 1218
Administrative Hearings, State Office of	Continued	No Impact	Shapleigh	Dunnam/Wise	S.B. 1147
Aerospace Commission, Texas	Abolished	\$255,378	Nelson	Solomons/Keffer, J.	S.B. 275
Architectural Examiners, Texas Board of	Continued	\$175,360**	Jackson	Chisum, et al	S.B. 283
Bar of Texas, State	Continued	\$5,470,300**	Jackson	Chisum, et al	H.B. 599
Boards and Commissions Project	No Sunset Date	\$80,000	Ellis	Chisum	S.B. 287
Correctional or Rehabilitation Facility Subchapter	Continued	No Impact	Lucio	Solomons, et al	H.B. 1331
Court Reporters Certification Board	Continued	\$60,000	Shapleigh	Dunnam/Hartnett	S.B. 273
Dental Examiners, State Board of	Continued	\$11,600	Nelson	Gallego	S.B. 263
Economic Development, Texas Department of	Abolished	\$3,050,332	Nelson	Solomons/Keffer, J.	S.B. 275
Educator Certification, State Board for	Continued*	No Impact	Lucio	Grusendorf	S.B. 265
Engineers, Texas Board of Professional	Continued	No Impact	Ellis	Chisum, et al	S.B. 277
Ethics Commission, Texas	No Sunset Date	\$3,187,550	Ellis	Wolens	H.B. 1606
Funeral Service Commission, Texas	Continued	No Impact	Shapleigh	Chisum, et al	H.B. 1538
Health, Texas Department of	No Action	No Impact	No Legislation		
Higher Education Coordinating Board, Texas	Continued	\$3,403,500	Shapleigh	Gallego/Morrison	S.B. 286
Housing and Community Affairs, Texas Department of	Continued	No Impact	Lucio	Callegari, et al	S.B. 264
Housing Corporation, Texas State Affordable	Continued	No Impact	Lucio	Callegari, et al	S.B. 284
Human Services, Texas Department of	No Sunset Date	No Impact	Nelson	Chisum	S.B. 285
Land Surveying, Texas Board of Professional	Continued	No Impact	Shapleigh	Solomons, et al	S.B. 260
Law Examiners, Board of	Continued	No Impact	Lucio	Gallego/Hartnett	S.B. 266
Licensing Agency Pilot Project	Continued	\$674,488	Armbrister	Heflin	S.B. 1382
Licensing and Regulation, Texas Department of	Continued	\$24,600	Jackson	Solomons, et al	S.B. 279
Lottery Commission, Texas	Continued*	No Impact	Jackson	Wilson	S.B. 270
Plumbing Examiners, Texas State Board of	Continued	\$168,000	Jackson	Dunnam/Bailey	S.B. 282
Purchasing from People with Disabilities, Texas Council on	Continued	No Impact	Shapleigh	Dunnam	S.B. 261
Riding Stables Chapter	Repealed	\$10,000	Jackson	Dunnam	S.B. 271
Tax Professional Examiners, Board of	Continued	No Impact	Lucio	Flores, et al	S.B. 276
Workforce Commission, Texas	Continued	No Impact	Nelson	Solomons/Keffer, J.	S.B. 280
Workforce and Economic Competitiveness, Texas Council on	Continued	No Impact	Nelson	Solomons	S.B. 281
Fiscal Impact Total		\$17,031,108			

* The State Board for Educator Certification and the Texas Lottery Commission were continued for two years in H.B. 2455. The agencies will be reviewed again in the 2004-2005 biennium.

** Savings or revenue generated by these bills will not accrue to the General Revenue Fund, but will be redirected to other agency programs.

AGENCIES

Texas State Board of Public Accountancy

Staff Contact: Lori Hartman

H.B. 1218 Chisum, et al (Nelson)

Summary

The Texas State Board of Public Accountancy (the Board) was created in 1915 to regulate the practice of public accountancy, and to provide competent, objective accountants and auditors for Texas' financial markets, banking systems, and businesses. The Board's major functions include licensing accountants and accountancy firms, and enforcing the Public Accountancy Act by investigating and resolving complaints. The Board operates with an annual budget of about \$3.98 million, and has 43.5 staff positions.

House Bill 1218 continues the Board as a separate, stand-alone agency until September 1, 2015. Also, in response to recent accounting scandals associated with the high profile bankruptcies of Enron and WorldCom, the Sunset Commission's recommendations and resulting legislation focus on enhancing the Board's enforcement authority, so that it can better protect the public. Among other things, the bill expands the range of criminal penalties for certain violations of the Public Accountancy Act and increases the maximum administrative penalty from \$1,000 to \$100,000 per violation. These provisions will result in a positive fiscal impact of \$230,000 per year. The list below summarizes the major provisions of H.B. 1218, and a more detailed discussion follows.

Sunset Provisions

1. Grant the Board Additional Enforcement Powers.
2. Authorize the Board's Use of Non-Board Members, Who Meet Certain Statutory Qualifications, on Enforcement Committees, and Prohibit This Practice for Policymaking Committees.
3. Conform Key Elements of the Public Accountancy Act to Commonly Applied Licensing Practices.
4. Protect From Prosecution Individuals Who Report Fraudulent Accounting Practices to the Board.
5. Require the Board to Study and Report on Changes in Federal Accountancy Law.
6. Continue the Texas State Board of Public Accountancy for 12 Years.

Sunset Provisions

1. Grant the Board Additional Enforcement Powers.

To enhance the Board's enforcement program, H.B. 1218 includes the following provisions.

- Makes violations involving intentional fraud a felony offense, scaled to the amount of monetary loss: state jail felony for losses of \$0 to \$10,000; third degree felony for losses of more than \$10,000, but less than \$100,000; and, second degree felony for losses of \$100,000 or more. The bill maintains the existing Class B misdemeanor penalty for all other violations of the Act.
- Increases the statutory cap on administrative penalties from \$1,000 to \$100,000 per violation, to allow the Board to impose monetary penalties appropriate to the nature of the violation. The Board will adopt rules to identify which offenses merit higher penalties.
- Authorizes the Board to order licensees to pay restitution to consumers as a part of enforcement actions. The legislation limits refunds to the actual amount paid under the contract, and does not allow compensation for other types of harm.
- Authorizes the Board to suspend, on an emergency basis, the license of any person or firm that is committing fraud, violating the Public Accountancy Act, or is about to engage in fraudulent activity or violations, if the person or firm presents an immediate threat to the public welfare. The Legislature modified this provision to provide for a timely appeals process.
- Authorizes the Board to issue subpoenas to compel the attendance of witnesses or the production of records relating to matters which the Board has authority in the Public Accountancy Act to investigate.
- Grants the Board the authority to share confidential information with governmental agencies and law enforcement officials for joint investigative purposes. The Board will adopt rules to guide the agency when sharing this information with other jurisdictions pursuing enforcement actions.
- Authorizes the Board to issue cease-and-desist orders to individuals who are practicing public accountancy without a license, and to impose administrative penalties up to \$25,000 for violations of cease-and-desist orders.

2. Authorize the Board's Use of Non-Board Members, Who Meet Certain Statutory Qualifications, on Enforcement Committees, and Prohibit This Practice for Policymaking Committees.

House Bill 1218 repeals current statutory language requiring the Board to make appointments to its enforcement committees from its membership, and instead specifically authorizes the appointment of non-board members to Board working committees, including its enforcement committees. Non-board members, however, may not serve on Board policymaking committees.

In appointing non-board members, the Board must check the compliance history of all appointees to ensure that licensees with past enforcement actions are not serving on the committees. In addition, non-board members must meet qualifications similar to Governor appointees, regarding potential

conflicts of interest and financial disclosure. The Board will develop rules requiring committee members to recuse themselves from discussing or voting on matters in which they have a personal interest.

3. Conform Key Elements of the Public Accountancy Act to Commonly Applied Licensing Practices.

House Bill 1218 includes the following three provisions that bring the Board in line with standard licensing agency practices.

- Requires the Board to define which misdemeanor convictions disqualify an applicant from certification in the standard manner defined in Chapter 53 of the Occupations Code.
- Authorizes the Board to delegate the collection of Uniform CPA Examination fees to the entity conducting the examination.
- Requires Board members to recuse themselves from voting on disciplinary actions when they serve on respective enforcement committees.

4. Protect From Prosecution Individuals Who Report Fraudulent Accounting Practices to the Board.

House Bill 1218 provides immunity from criminal and civil liability to individuals who report or assist in the investigation of violations of the Public Accountancy Act. The bill exempts from immunity persons who report their own violations or who act in bad faith or with malicious purpose when reporting violations.

5. Require the Board to Study and Report on Changes in Federal Accountancy Law.

The Legislature modified the Sunset provision to require the Board, by December 31, 2004, to study and report on federal requirements in the Sarbanes-Oxley Act, the General Accounting Office's study on audit firm rotation, and the Board's implementation of rules consistent with these national standards. This report will enable the 2005 Legislature to take action to keep Texas public accountancy laws current with national standards.

6. Continue the Texas State Board of Public Accountancy for 12 Years.

This provision continues the Board as a separate, stand-alone agency for the standard 12-year period.

Fiscal Implication Summary

House Bill 1218 will result in a positive fiscal impact of \$230,000 per year. The bill increases the statutory cap on administrative penalties from \$1,000 to \$100,000 per violation, and allows the agency to impose administrative penalties up to \$25,000 on persons who practice accountancy without a license and violate a cease-and-desist order. Based on historical enforcement patterns, the Board estimates a total gain of \$230,000 per year from administrative penalties, \$10,000 of which will result from cease-and-desist order violations. Because of the Board's participation in the Self-Directed, Semi-Independent Licensing Agency Pilot Project, the funds will be held in a special fund outside the State Treasury to pay for Board operations. Senate Bill 1382 reauthorizing the Pilot Project provides that a portion of unexpended balances related to enforcement actions be deposited annually in the General Revenue Fund.

The provision allowing the Board to issue subpoena orders will result in a slight cost to the Board; however, the Board will adjust licensing fees to cover the costs, and as a result, this provision will not have a fiscal impact to the State.

State Office of Administrative Hearings

Staff Contact: Joe Walraven

S.B. 1147 Shapleigh (Dunnam/Wise)

Summary

The State Office of Administrative Hearings (the Office) reflects the evolution of administrative law in Texas. As state agencies gained authority over the years to act on matters under their purview without having to go to the courts, the Legislature came to see the risks and potential conflicts of having the same agency that establishes, implements, and enforces policies also sitting in judgment of persons affected by those policies. The Legislature created the Office to eliminate those potential conflicts by providing independent administrative law hearings and alternative dispute resolution for state agencies. The Office operates with an annual budget of about \$8.5 million and a staff of 118, of which 59 are administrative law judges.

Senate Bill 1147 provides for another Sunset review of the Office in 2015 and contains other Sunset Commission recommendations to simplify the Office's funding method, transfer the hearings function from the Texas Department of Licensing and Regulation to the Office, and create an exception from public disclosure for judges' work notes and drafts. The list below summarizes the major provisions of S.B. 1147, and a more detailed discussion follows.

Sunset Provisions

1. Continue the State Office of Administrative Hearings for 12 Years.
2. Require Agencies to Pay the Office for Hearings Up Front and Abolish the Billing Process.
3. Transfer the Hearings Function at the Texas Department of Licensing and Regulation to the Office.
4. Exempt the Office's Administrative Law Judges' Working Notes and Draft Proposals for Decision From the Public Information Act.
5. Require the Office to Verify the Identity of Witnesses Who Appear by Telephone.

Provision Added by the Legislature

6. Require the Office to Provide a Translator if Requested.

Sunset Provisions

1. Continue the State Office of Administrative Hearings for 12 Years.

Senate Bill 1147 continues the Office as an independent agency responsible for conducting independent administrative hearings for certain state agencies. The Office is subject to Sunset review again in 2015, but will not be subject to abolishment.

2. Require Agencies to Pay the Office for Hearings Up Front and Abolish the Billing Process.

The bill requires agencies to pay for their administrative hearings in a lump sum at the start of each year of the biennium, based on each agency's average costs over the three years preceding the beginning of a new biennium. This provision covers agencies that currently pay for hearings by contract with the Office and agencies whose hearings costs are paid by direct appropriation to the Office for a specified level of usage. This provision will not apply until the 2006-2007 biennium, and it will not apply to the Texas Commission on Environmental Quality, the Public Utility Commission, or the Administrative License Revocation hearings for the Department of Public Safety, which are governed by other contractual arrangements.

Under this provision, the Office will calculate the amount of casework required for each agency for the three years preceding each biennium to provide the basis for each agency's payment to the Office. In estimating anticipated usage, the Office must also consider other relevant information that suggests an increase or decrease in the agency's usage during the upcoming biennium compared to past usage. The Office must also provide its usage calculations to the Legislature as part of its appropriations request. If an agency did not refer a matter to the Office during the preceding three years and the Office's costs of conducting hearings are not otherwise paid by appropriation to the Office, the referring agency must pay its hearing costs based on its actual usage and the hourly rate set by the Office.

The bill also eliminates the process by which the Office currently bills certain agencies for their excess hearings workload above an established hourly cap. These agencies, whose hearings costs are already directly funded by General Revenue appropriation, will continue to be direct-funded. The Office will conduct hearings for these agencies without regard to a cap, but will continue to calculate each agency's usage at the end of the fiscal year to help ensure that future payments reflect actual usage.

3. Transfer the Hearings Function at the Texas Department of Licensing and Regulation to the Office.

Senate Bill 1147 transfers the administrative hearings functions and activities of the Texas Department of Licensing and Regulation to the Office, including two employee positions currently responsible for conducting hearings. In conducting these hearings, the Office must consider the Licensing and Regulation Commission's applicable substantive rules or policies, and the Commission maintains final authority to accept, reverse, or modify a proposal for a decision made by an administrative law judge.

4. Exempt the Office's Administrative Law Judges' Working Notes and Draft Proposals for Decision From the Public Information Act.

Under this provision, the Office's judges' working notes and drafts of proposals for decisions and orders for contested case hearings are not subject to disclosure under the Texas Public Information Act.

5. Require the Office to Verify the Identity of Witnesses Who Appear by Telephone.

The Legislature modified the Sunset provision to require the Office's rules regarding witness participation in hearings by telephone to include procedures for verifying the identity of those witnesses.

Provision Added by the Legislature _____

6. Require the Office to Provide a Translator if Requested.

The Legislature added a provision requiring the Office to provide and pay for language translators and hearing-impaired interpreters at its hearings. Currently, the Office requires the referring agency or the party needing an interpreter or translator in these proceedings to make those arrangements. This provision will not affect administrative license revocation cases in which the Office already provides interpreters or translators.

Fiscal Implication Summary _____

This legislation will not have a fiscal impact to the State.

Texas Aerospace Commission

Staff Contact: Jennifer Jones

S.B. 275 Nelson (Solomons/Keffer, J.)

Summary

The Legislature created the Texas Space Commission in 1987 to encourage economic development of industries related to the commercialization of space, renaming it the Texas Aerospace Commission in 1993. The Commission helps recruit and expand aerospace industries in Texas; administers state grant funds to assist with the establishment of spaceports (reusable launch facilities); and helps promote space-related research. The Commission currently operates with a staff of three, and its annual appropriation is \$212,815.

Senate Bill 269 contained the Sunset Commission's recommendation to clarify the Commission's mission and continue it for 12 years. However, this bill did not pass. Instead, the Legislature adopted Senate Bill 275 that transfers the functions of the Texas Aerospace Commission to the Aerospace and Aviation Office, within the newly-created Texas Economic Development and Tourism Office in the Governor's Office. Transferring these functions will result in an annual savings of \$127,689. The list below summarizes the major provisions of S.B. 275 that relate to the Texas Aerospace Commission, and a more detailed discussion follows.

Sunset Provision

1. Clarify the Texas Aerospace Commission's Mission as Fostering the Development of Both the Aerospace and Aviation Industries.

Provision Added by the Legislature

2. Transfer the Functions of the Texas Aerospace Commission to the Texas Economic Development and Tourism Office.

Sunset Provision

1. Clarify the Texas Aerospace Commission's Mission as Fostering the Development of Both the Aerospace and Aviation Industries.

The Legislature modified the Sunset provision to require the Aerospace and Aviation Office, rather than the Texas Aerospace Commission, to foster the growth and development of both the aerospace and aviation industries. Senate Bill 275 requires the Aerospace and Aviation Office to perform the following duties.

- Analyze the state's economic position in the aerospace and aviation industries.
- Develop short-term and long-term business strategies as part of an industry-specific strategic plan to promote the retention, development, and expansion of aerospace and aviation industry facilities in the state.
- Make specific recommendations to the Legislature and the Governor regarding the promotion of aerospace and aviation industries.
- Act as a liaison with other state and federal entities with related economic, educational, and defense responsibilities to support the marketing of the state's aerospace and aviation capabilities.
- Provide technical support and expertise to the state and local spaceport authorities regarding aerospace and aviation business matters.
- Promote and develop spaceports in this state.

Provision Added by the Legislature

2. Transfer the Functions of the Texas Aerospace Commission to the Texas Economic Development and Tourism Office.

The Legislature added a provision to S.B. 275 to transfer the functions of the Texas Aerospace Commission to the Aerospace and Aviation Office, within the Texas Economic Development and Tourism Office in the Governor's Office. The bill abolishes the seven-member policymaking body of the Texas Aerospace Commission, but requires the Governor to appoint a seven-member Aerospace and Aviation Advisory Committee. The executive director of the Texas Aerospace Commission becomes the director of the Aerospace and Aviation Office.

Removed Provision

1. Continue the Texas Aerospace Commission for 12 Years.

The Legislature did not adopt the Sunset recommendation to continue the Texas Aerospace Commission for 12 years as a separate, stand-alone state agency.

Fiscal Implication Summary

Abolishing the Texas Aerospace Commission and transferring its functions to the Aerospace and Aviation Office will result in annual savings of \$127,689 and a reduction of two staff positions.

Fiscal Year	Savings to the General Revenue Related Funds	Change in Staff Positions From 2003
2004	\$127,689	-2
2005	\$127,689	-2
2006	\$127,689	-2
2007	\$127,689	-2
2008	\$127,689	-2

Texas Board of Architectural Examiners

Staff Contact: Amy Trost

S.B. 283 Jackson (Chisum, et al)

Summary

The Legislature created the Texas Board of Architectural Examiners (the Board) in 1937 to regulate architects, and later added the regulation of interior designers and landscape architects to the Board's duties. The Board has three primary functions: licensing qualified applicants, enforcing Board rules and statutes, and providing information to the public and licensees. The Board's current annual budget is \$2.3 million, and the Board has 22 staff positions.

Senate Bill 283 continues the Board for 12 years, and contains the Sunset Commission's recommendations to expand the Board's enforcement authority and to conform the Board's licensing and regulatory activities to commonly observed licensing practices. The list below summarizes the major provisions of the bill, and a more detailed discussion follows.

Sunset Provisions

1. Improve the Board's Enforcement Program by Expanding Its Authority.
2. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.
3. Continue the Board for 12 Years, and Require It to Form a Joint Practice Committee With the Texas Board of Professional Engineers.
4. Permit Nonarchitects to Design Warehouses With Limited Public Access.

Provision Added by the Legislature

5. Authorize the Board to Recommend Rehabilitation Codes to Municipalities, and Require Municipalities to Adopt the Codes.

Sunset Provisions

1. Improve the Board's Enforcement Program by Expanding Its Authority.

Senate Bill 283 authorizes the Board to issue cease-and-desist orders, providing the Board with an additional tool to stop unlicensed individuals from violating the architecture, landscape architecture, and interior design statutes. The bill authorizes the Board to levy administrative penalties for each of its statutes up to \$5,000 per violation, and requires the Board to include fine amounts in its administrative penalty matrix, to help ensure the fair and consistent application of administrative fines. The legislation also authorizes the Board to order payment of restitution to consumers as a part of its enforcement actions. Refunds are limited to actual amounts paid by consumers to licensees.

2. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

Senate Bill 283 includes several provisions that align the Board with standard licensing agency practices, consisting of the following.

- Clarifies that the Board must address felony and misdemeanor convictions in the standard manner defined in the Occupations Code.
- Requires the Board to adopt rules to ensure that its exams are accessible to persons with disabilities in accordance with the Americans with Disabilities Act.
- Requires the Board to adopt, by rule, comprehensive refund policies for its examinations.
- Eliminates the requirement that the Board must collect all examination fees.
- Requires the Board to adopt clear standards of conduct for all of the professions that it regulates.
- Requires the Board to adopt comprehensive rules outlining all phases of the complaint process.
- Standardizes statutory grounds for disciplinary action in the Board's three statutes.
- Conforms the Board's statutes concerning hearings and appeals to the Administrative Procedure Act and the enabling statute of the State Office of Administrative Hearings.
- Requires the Board to make public all disciplinary orders and sanctions.
- Eliminates the statutory language that sets and caps fees.
- Requires the Board to adopt, by rule, uniform standards pertaining to consumer notification of the Board's jurisdiction.
- Standardizes the architect, landscape architect, and interior design statutes with respect to Board powers, duties, and processes.

3. Continue the Board for 12 Years, and Require It to Form a Joint Practice Committee With the Texas Board of Professional Engineers.

This provision continues the Board as a stand-alone agency for the standard 12-year period, and requires it to form a joint practice committee with the Engineers Board to resolve issues resulting

from the overlap among professions regulated by the agencies. The Legislature modified the joint committee by adding an accredited, practicing architect and an accredited, practicing architectural engineer to the joint committee.

4. Permit Nonarchitects to Design Warehouses With Limited Public Access.

This provision adds warehouses with limited public access to the structures that do not require an architect regardless of their size. Currently, architects are required to design nonagricultural warehouses larger than 20,000 square feet. The Legislature did not adopt a related Sunset Commission recommendation to reduce the size of other buildings that must be designed by architects (see Removed Provision 2).

Provision Added by the Legislature _____

5. Authorize the Board to Recommend Rehabilitation Codes to Municipalities, and Require Municipalities to Adopt the Codes.

This provision authorizes the Board to recommend to municipalities rehabilitation codes or prescriptive provisions for rehabilitation. The provision further requires municipalities that have already adopted a building code to also adopt prescriptive provisions for rehabilitation, or the rehabilitation code that accompanies the building code adopted by the municipality.

Removed Provisions _____

1. Clarify That the Board Does Not Have Authority to Require Firms to Register.

The Legislature did not adopt the recommendation to explicitly state that the Board cannot require architecture, landscape architecture, and interior design firms to register with the Board. The Legislature instead provided that the Board may, by rule, require firms to register.

2. Require Architects to Design Commercial Buildings Larger Than 5,000 Square Feet or Two Stories in Height.

The Legislature did not adopt this Sunset recommendation prohibiting nonarchitects from preparing the architectural plans for privately owned commercial buildings exceeding 5,000 square feet in size or two stories in height.

Fiscal Implication Summary _____

Senate Bill 283 will result in a revenue gain to the Board, under the provisions of the Self-Directed, Semi-Independent Licensing Agency Pilot Project, which specifies that the funds will be held in a special fund outside the State Treasury to pay for Board operations. The bill increases the statutory cap on administrative penalties from \$1,000 to \$5,000 per violation. Based on historical enforcement patterns, the Board will gain an estimated \$87,680 per year as a result of this increase in administrative penalties. Senate Bill 1382 reauthorizing the Pilot Project provides that a portion of unexpended balances related to enforcement actions be deposited annually in the General Revenue Fund.

State Bar of Texas

Staff Contact: Vanessa González

H.B. 599 Chisum, et al (Jackson)

Summary

The State Bar is a quasi-governmental agency of the judicial branch that operates outside the State's appropriations process as a public corporation funded primarily by membership dues and professional development program fees. While the Supreme Court exercises primary oversight of the State Bar in approving the agency's budget, promulgating agency rules, and appointing public members to the Board, the Legislature also maintains oversight through the State Bar Act and the Sunset review process.

House Bill 599 continues the State Bar for 12 years, and requires increased accountability through strategic planning and performance-based budgeting. The bill streamlines the State Bar's unnecessarily complex committee structure to make it more responsive to the State Bar's needs. In addition, H.B. 599 establishes in statute a framework for the State Bar's grievance system that simplifies the process to promote consistency and reduce resolution time. The bill also provides for more effective rulemaking by repealing the 51 percent participation requirement in rulemaking and dues referenda. The Legislature adopted all of the Sunset Commission's recommendations, and modified one by reinstating the district court option for grievances. The Legislature added a provision to increase funding for legal services to the indigent by approximately \$2.5 million annually for the next four years. The Legislature also added language regarding potential conflicts of interest by county judges and county commissioners. The list below summarizes the major provisions of H.B. 599, and a more detailed discussion follows.

Sunset Provisions

1. Continue the State Bar, but Require Increased Accountability Through Strategic Planning and Performance-Based Budgeting.
2. Streamline the State Bar's Unnecessarily Complex Committee Structure to Make It More Responsive to the Bar's Needs.
3. Establish a Framework for the State Bar's Grievance System in Statute and Simplify the Process to Promote Consistency and Reduce Resolution Time.
4. Require the State Bar to Maximize Services Offered Through Its Client-Attorney Assistance Program Through Increased Coordination With the Grievance System and Other Bar Programs.
5. Provide for More Efficient Rulemaking by Repealing the 51 Percent Participation Requirement in Rulemaking and Dues Referenda.

Provisions Added by the Legislature

6. Require the Supreme Court to Collect Fees to Fund Legal Services.
7. Address Conflicts of Interest Regarding County Judges and County Commissioners.

Sunset Provisions

1. Continue the State Bar, but Require Increased Accountability Through Strategic Planning and Performance-Based Budgeting.

House Bill 599 continues the State Bar for the standard 12-year period until 2015. Similar to executive branch state agencies, the State Bar will develop a formal strategic plan each even-numbered year, covering a period of five years, beginning with the next odd-numbered year. The plan must include goals and a system for measuring performance, concentrating on results and outcomes of Bar operations and services. For increased accountability, the Bar must annually report its performance measures to the Supreme Court and in the *Texas Bar Journal*, and it must use this information in its budgeting process. After implementation of the budget, the Bar must report its performance to facilitate the revision of performance projections when needed, and inform the Supreme Court.

2. Streamline the State Bar's Unnecessarily Complex Committee Structure to Make It More Responsive to the Bar's Needs.

The bill specifies in statute the composition of the State Bar Executive Committee and charges it with the authority to approve the creation of new standing and special committees, upon the recommendation of the President. Before approval, the Executive Committee must require a fiscal impact study, a poll of each chair of existing committees, and a review to determine if the matter can be undertaken by an existing committee. The Executive Committee must also oversee or direct a comprehensive review of standing or special committees at least biennially to examine the continued necessity of each existing committee and determine any overlap of activities among the committees. The State Bar Board may assign other responsibilities to the Executive Committee, as it determines appropriate.

3. Establish a Framework for the State Bar's Grievance System in Statute and Simplify the Process to Promote Consistency and Reduce Resolution Time.

The bill revises the State Bar's grievance system and establishes the major elements of this system in statute. While specific implementation provisions for the grievance process, including time limits, will remain in rules promulgated by the Supreme Court, H.B. 599 contains the following provisions.

- At intake, an investigator of the chief disciplinary counsel (CDC) will classify the grievance as either a complaint or an inquiry. Inquiries will be dismissed and referred to the Client-Attorney Assistance Program (CAAP) to attempt resolution, on a voluntary basis, outside the grievance system. The complainant will be able to appeal the classification of the grievance to the Board of Disciplinary Appeals, and may amend and resubmit the grievance to the CDC. The respondent will not be able to appeal classification decisions since, unlike the current process, more thorough investigation will occur before a hearing takes place.
- Grievances classified as complaints will be thoroughly investigated by the local CDC to determine if the complaint should be dismissed or if just cause exists to believe that misconduct occurred. This CDC investigation serves to streamline the process by reducing the number of administrative hearings necessary in the current process. Chief disciplinary counsel recommendations for dismissal will go to a dismissal docket, in which a district grievance

committee, at a closed hearing without the complainant or the respondent attorney present, will consider denying the dismissal and setting the case for a hearing, or approving the dismissal and possibly referring the matter to CAAP. In cases in which CDC finds just cause, the Legislature did not adopt the Sunset recommendation that would have removed the respondent attorney's ability to opt for a trial de novo in district court in lieu of the Bar's administrative process. Instead, H.B. 599 allows the respondent attorney to continue to request a trial in district court. In the absence of such a request, CDC shall place the complaint on a hearing docket.

- In the hearing docket, a district grievance committee panel will review cases found to have just cause to believe misconduct occurred. At this stage, the Commission for Lawyer Discipline, presenting the complainant's case, and the respondent attorney are parties to the hearing. The panel may dismiss the matter and refer it to CAAP, find a disability and refer to a district disability committee, or issue sanctions. The Commission or the respondent attorney may appeal the finding of a district grievance committee to the Board of Disciplinary Appeals and then to the Supreme Court. The Legislature added language to authorize the Board of Disciplinary Appeals to affirm, modify, or reverse a finding of the grievance committee, or to remand the complaint for rehearing by the grievance committee or a statewide grievance committee panel.
 - The panel hearing will be closed to the public to allow the district grievance committee panel to address confidential matters and issue private reprimands. However, if any sanction other than a private reprimand is issued, all hearing documentation shall be made public upon request.
- 4. Require the State Bar to Maximize Services Offered Through Its Client-Attorney Assistance Program Through Increased Coordination With the Grievance System and Other Bar Programs.**

The bill requires dismissals of client-filed grievances to be referred to CAAP as a voluntary alternative for further resolution. Addressing non-disciplinary issues, CAAP will remain separate from CDC, yet will maintain the confidentiality of the disciplinary system to allow full cooperation of the client and the attorney in resolving non-grievable issues.

5. Provide for More Efficient Rulemaking by Repealing the 51 Percent Participation Requirement in Rulemaking and Dues Referenda.

House Bill 599 allows State Bar members to continue voting in referenda concerning proposed rule changes and dues increases, but eliminates the requirement for 51 percent of registered members to vote for a referendum to be considered valid. Instead, a simple majority will determine the outcome of a referendum. Under Supreme Court direction, the State Bar will continue to promote and track member participation in elections, and must report participation levels to the Supreme Court and in the *Texas Bar Journal*. The bill also authorizes the State Bar, with Supreme Court approval, to distribute and receive referendum ballots and related materials electronically, if it can provide assurance that members have secure access to information and voting.

Provisions Added by the Legislature

6. Require the Supreme Court to Collect Fees to Fund Legal Services.

The Legislature added this provision to require the Supreme Court to remit to the Comptroller an annual \$65 legal services fee collected from active members of the State Bar, with certain exceptions. The bill requires the Comptroller to credit 50 percent of the fees to the Judicial Fund for indigent civil legal services programs approved by the Supreme Court, and the remaining 50 percent to a General Revenue account established by the Comptroller for funding indigent defense. The bill also provides for the provision establishing the fee to expire in four years.

7. Address Conflicts of Interest Regarding County Judges and County Commissioners.

The Legislature added this provision to allow county judges and commissioners to practice law in courts located in counties in which they serve, if they comply with requirements for disclosing a substantial interest in a business entity. Judges may not enter a court appearance or sign court pleadings as an attorney in a matter before the judge's own court or any Texas court over which the judge's court exercises appellate jurisdiction.

Fiscal Implication Summary

The provisions in H.B. 599 will increase revenue to the State as a result of making the \$65 legal services fee mandatory. This fee is expected to generate approximately \$3.5 million annually, based on the number of attorneys and the exemptions from having to pay the fee. Half of the revenue goes to the Fair Defense Account in the General Revenue Fund to provide grants to counties for indigent defense services. The other half of the revenue goes to the Judicial Fund for programs approved by the Supreme Court to provide basic legal services to the indigent. However, making this fee mandatory will likely cause the loss of voluntary contributions for access to justice, which totaled approximately \$1 million in 2002. As a result, the net effect of this mandatory fee is a \$750,000 annual increase to the Judicial Fund. These provisions funding indigent legal services will expire on September 1, 2007, and are summarized in the table below.

Other provisions of H.B. 599 have fiscal implications, but because the State Bar does not receive General Revenue appropriation, the provisions would have no fiscal impact to the State. For example, the elimination of unnecessary disciplinary hearings will generate savings to the State Bar totaling \$600,800 annually. In addition, the requirement for all client-driven complaints dismissed in the grievance system to be referred to CAAP will result in an annual increase in program costs of \$365,650, resulting in an overall net savings to the Bar of approximately \$235,000.

Fiscal Year	Gain to the Fair Defense Account (Dedicated Account in General Revenue Fund)	Gain to the Judicial Fund (Account Held Outside State Treasury)	Savings to the State Bar
2004	\$1,750,000	\$750,000	\$235,150
2005	\$1,750,000	\$750,000	\$235,150
2006	\$1,750,000	\$750,000	\$235,150
2007	\$1,750,000	\$750,000	\$235,150
2008	\$0	\$0	\$235,150

Boards and Commissions Project

Staff Contact: Katrina Daniel

S.B. 287 Ellis (Chisum)

Summary

In 1999, voters approved House Joint Resolution 29, an amendment to the Texas Constitution proposed by the 76th Legislature, which affects appointments to executive branch boards and commissions. Before the 1999 amendment, the Constitution allowed members of a state board or commission to exceed the general two-year limitation on the length of a term of office if one-third of the members' terms expired every two years. This had the practical effect of requiring the number of members on a state board or commission be divisible by three if the members were serving six-year terms.

Under the 1999 amendment, the new condition for having six-year terms on a state board or commission is that the board or commission be composed of an odd number of three or more members, with one-third or as near one-third as possible of the members' terms expiring every two years. Boards required by the Constitution are one exception to this new rule and may still be composed under the old divisible-by-three rule. House Joint Resolution 29 required that the transition in state agency board and commission composition from the old divisible-by-three rule to the new rule of an odd number of three or more members be accomplished not later than September 1, 2003.

As a result, the 78th Legislature passed Senate Bill 287 that adjusts the composition of nearly 50 state agency boards and commissions and the Texas River Authorities to bring them into compliance with this constitutional change. With the exception of the Texas Workers' Compensation Commission, whose members' terms were reduced to two years and the membership left even in number, all governing bodies were either reduced or increased in size to comply with the Constitution. The overall result is a reduction of 20 board members across the agencies.

Fiscal Implication Summary

Senate Bill 287 reduces the overall number of state agency board and commission members by 20, resulting in a corresponding reduction in travel costs to the State. As a result, the bill creates an approximate positive fiscal impact of \$80,000 over the biennium, attributable to savings from travel costs.

Fiscal Year	Savings to the General Revenue Fund
2004	\$40,000
2005	\$40,000
2006	\$40,000
2007	\$40,000
2008	\$40,000

Correctional or Rehabilitation Facility Subchapter

Staff Contact: Christian Ninaud

H.B. 1331 Solomons, et al(Lucio)

Summary

The Correctional or Rehabilitation Facility Subchapter (the Subchapter), enacted in 1997, authorizes local officials (county and city governing bodies) to deny consent for the location of certain correctional or rehabilitation facilities proposed to be built or operated within 1,000 feet of a residential area, school, public park, or place of worship. The Subchapter applies to correctional facilities, such as state jails, halfway houses, probation and parole offices, and residential facilities operated or contracted for by the Texas Department of Criminal Justice, the Texas Youth Commission, or other political subdivisions of the state. The Legislature directed the Sunset Commission to review the need for, and effectiveness of, this law.

House Bill 1331 contains the Sunset Commission's recommendations to continue the Subchapter, and to ensure that local communities receive notice and have a reasonable amount of time to review a proposed facility. The major provision of H.B. 1331 is listed below, and a more detailed discussion follows.

Sunset Provision

1. Continue the Correctional or Rehabilitation Facility Subchapter, and Require the State to Provide Notice of These Facilities to Local Officials.

Sunset Provision ---

1. Continue the Correctional or Rehabilitation Facility Subchapter, and Require the State to Provide Notice of These Facilities to Local Officials.

House Bill 1331 continues the Subchapter and removes its Sunset date so these statutes can be incorporated in the next Sunset review of the Texas Department of Criminal Justice, scheduled for 2011. Reviewing the Subchapter in eight years will provide another look at the impact of the local veto authority to determine if any further problems arise, particularly if significant expansion of these facilities occurs. The bill also improves the process by requiring better notice to county and city governing bodies of planned correctional or rehabilitation facilities.

Fiscal Implication Summary ---

This legislation will not have a fiscal impact to the State.

Court Reporters Certification Board

Staff Contact: Katrina Daniel

S.B. 273 Shapleigh (Dunnam/Hartnett)

Summary

Since 1914, the courts of Texas have identified the need to preserve a record of court proceedings, and have considered court reporters to be officers of the court. In 1977, the Legislature created the Court Reporters Certification Board (the Board) to regulate the court reporter profession. In fiscal year 2002, the Legislature appropriated \$156,525 to the Board. Agency appropriations were offset by \$303,873 in fees paid into the General Revenue Fund from licensees. The agency currently employs three staff.

The Board's major functions include:

- administering the quarterly court reporter examination and certifying court reporters;
- registering court reporting firms; and
- processing complaints and taking disciplinary action against certified court reporters and court reporting firms.

Senate Bill 273 contains all of the Sunset Commission's recommendations, and several additional provisions affecting the Board. Senate Bill 273 continues the Board and enacts several provisions that conform the agency's operations and licensing procedures to standard practices seen in other regulatory bodies. The legislation also merges the Board into the Office of Court Administration for administrative purposes. The list below summarizes the major provisions of S.B. 273, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Court Reporters Certification Board for 12 Years.
2. Conform Key Elements of the Board's Programs to Commonly Applied Occupational Licensing Practices.

Provisions Added by the Legislature

3. Administratively Attach the Board to the Office of Court Administration.
4. Clarify the Application of Texas Laws Governing Court Reporters.

Sunset Provisions

1. Continue the Court Reporters Certification Board for 12 Years.

Senate Bill 273 continues the functions of the Court Reporters Certification Board for the standard 12-year period to certify court reporters and register court reporting firms.

2. Conform Key Elements of the Board's Programs to Commonly Applied Occupational Licensing Practices.

The bill includes seven provisions that bring the Board in line with standard licensing agency practices, consisting of the following.

- Requires the Board to define which criminal convictions disqualify an individual from licensure.
- Requires the Board to adopt a Court Reporter's Code of Ethics.
- Eliminates onerous complaint filing requirements.
- Authorizes the Board to adopt a policy allowing staff to dismiss cases without Board approval.
- Authorizes the Board to levy administrative penalties, and requires a penalty matrix in procedure.
- Requires the Board to make information available to the public on its Web site or through email.
- Requires the Board to post information on its Web site regarding conditions that may negatively affect certification.

Provisions Added by the Legislature

3. Administratively Attach the Board to the Office of Court Administration.

Senate Bill 273 requires the Board to receive administrative support from the Office of Court Administration, while allowing the Board to retain its policy authority in the regulation of court reporters.

4. Clarify the Application of Texas Laws Governing Court Reporters.

The legislation ensures that Texas state laws governing court reporters and court reporting firms do not apply to firms and court reporters outside of Texas. Because some larger court reporting firms have branches in Texas as well as other states, concerns arose that Texas laws may affect branches in other states. The bill clarifies that the laws only apply in Texas.

Fiscal Implication Summary

Senate Bill 273 transfers the administrative support of the Court Reporters Board to the Office of Court Administration, resulting in a positive fiscal impact of \$60,000 to the State over the biennium. The savings are attributable to a reduction of one staff position and associated costs.

Fiscal Year	Savings to the General Revenue Fund
2004	\$30,000
2005	\$30,000
2006	\$30,000
2007	\$30,000
2008	\$30,000

State Board of Dental Examiners

Staff Contact: Joe Walraven

S.B. 263 Nelson (Gallego)

Summary

The Texas Legislature first required dentists to be licensed in 1897 by providing for district judges to appoint local boards of practicing dentists. In 1911, the Legislature created a statewide agency, the State Board of Dental Examiners (the Board), to license dentists. Today, the Board has three primary missions: license dentists and dental hygienists, register qualified dental laboratories, and enforce the Dental Practice Act, including investigating and resolving complaints. The Board operates with an annual budget of about \$1.87 million and 29 full-time employees.

Senate Bill 263 continues the Board for 12 years, with modifications to the Board's operations and policies, particularly in the area of enforcement. The legislation reflects the Sunset Commission's recommendations to strengthen the Board's enforcement procedures, ensure that the Board has appropriate regulatory authority over dental practitioners, and reduce the size of the Board. Other Sunset provisions in the bill include removing unnecessary barriers to dental licensure in Texas, enhancing the role of the Dental Hygiene Advisory Committee, and improving coordination between the Board and the Health and Human Services Commission on Medicaid-related complaint cases. The list below summarizes the major provisions of S.B. 263, and a more detailed summary follows.

Sunset Provisions

1. Continue the Board for 12 Years, and Eliminate the Separate Sunset Date for the Dental Hygiene Advisory Committee.
2. Reduce the Size of the Board From 18 to 15 Members.
3. Provide the Board With Additional Tools to Strengthen Its Enforcement Process.
4. Improve Coordination Between the Board and the Health and Human Services Commission on Medicaid-Related Issues.
5. Expand the Board's Existing Regulation of Dental Assistants to Require Greater Competence by Those Who Take X-Rays.
6. Provide for Licensing Dental Educators Who Provide Dental Services at Accredited Dental or Dental Hygiene Schools in Texas.
7. Reduce the Experience Requirement for Dental Licensure by Credentials.
8. Require the Board to Establish a System for Expunging Groundless, Dismissed Complaints From Its Records.
9. Require the Board to Act on Recommendations Proposed by the Dental Hygiene Advisory Committee Within a Specified Time.

Provision Added by the Legislature _____

10. Simplify the Process by Which Licensees Provide Proof of CPR Requirements.

Sunset Provisions

1. Continue the Board for 12 Years, and Eliminate the Separate Sunset Date for the Dental Hygiene Advisory Committee.

Senate Bill 263 continues the State Board of Dental Examiners as an independent agency responsible for regulating the dental industry for the standard 12-year period. The bill eliminates the separate Sunset date for the Dental Hygiene Advisory Committee, ensuring that the advisory committee is reviewed each time the Board undergoes review by the Sunset Commission.

2. Reduce the Size of the Board From 18 to 15 Members.

This provision brings the Board into compliance with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. The bill removes two of the dentist positions and one of the public-member positions from the Board, leaving the Board with 15 members consisting of eight dentists, two dental hygienists, and five public members.

3. Provide the Board With Additional Tools to Strengthen Its Enforcement Process.

To improve the Board's accountability and allow for more timely and efficient disposition of complaints, S.B. 263 provides the Board with additional enforcement tools. The bill expands the role of staff to dismiss baseless cases, conduct informal settlement conferences, and refer cases to the State Office of Administrative Hearings for formal hearing. Staff must seek input from dentist Board members in cases of patient morbidity, professional conduct, or quality of care.

Senate Bill 263 also authorizes the Board to use cease-and-desist orders when it receives a complaint about or otherwise hears of an individual or entity, including dental labs, practicing dentistry without a license. The Board may still refer these cases to local law enforcement agencies for prosecution, but must count unauthorized practice cases as jurisdictional, and direct investigators to pursue and follow up with the unlicensed individual to ensure compliance.

The bill authorizes the Board to include restitution as part of an agreement in the settlement conference process. The legislation limits this authority to ordering a refund not to exceed the amount the patient paid to the dentist and specifies that any restitution order may not include an estimation of other damages or harm.

4. Improve Coordination Between the Board and the Health and Human Services Commission on Medicaid-Related Issues.

To improve coordination on Medicaid-related issues, S.B. 263 requires the Board and the Health and Human Services Commission to enter into an interagency agreement requiring the two agencies to refer to each other cases involving Medicaid fraud and standard-of-care issues. The bill specifies that the two agencies must investigate cases together and collaborate on appropriate disciplinary action when possible. The Board also must include information on its Medicaid-related cases, such as the number received and disposition of cases, in its annual financial report.

5. Expand the Board's Existing Regulation of Dental Assistants to Require Greater Competence by Those Who Take X-Rays.

This provision builds upon existing registration requirements for dental assistants who take X-rays by requiring these assistants to pass an exam that also covers infection control techniques and state dental laws. Dental assistants must renew their registration annually and complete 12 hours of continuing education each year.

6. Provide for Licensing Dental Educators Who Provide Dental Services at Accredited Dental or Dental Hygiene Schools in Texas.

Senate Bill 263 requires dental educators who have direct contact with patients at accredited dental or dental hygiene schools in Texas, and who do not already hold a Texas dental or dental hygiene license, to pass a jurisprudence exam and register annually with the Board. The bill specifies that a faculty license does not authorize a dental or dental hygiene educator to enter into private practice.

7. Reduce the Experience Requirement for Dental Licensure by Credentials.

Senate Bill 263 reduces the years of practice required for dental licensure by credentials from five to three years. The bill also requires the Board to adopt rules specifying circumstances under which the Board may grant waivers to the continuous practice requirements for licensure by credentials.

8. Require the Board to Establish a System for Expunging Groundless, Dismissed Complaints From Its Records.

This provision requires the Board to establish, in rule, procedures for allowing a Board employee to expunge groundless, dismissed complaints from the Board's records. Staff must seek input from dentist Board members in cases of patient morbidity, professional conduct, or quality of care.

9. Require the Board to Act on Recommendations Proposed by the Dental Hygiene Advisory Committee Within a Specified Time.

The bill authorizes the Dental Hygiene Advisory Committee to make recommendations regarding the regulation of dental hygiene to the Board, and requires the Board to either deny or ratify and enforce the recommendations within 90 days. If the Board fails to take action on a recommendation from the advisory committee within that time, the recommendation becomes effective. If the Board must develop a rule based on a recommendation from the advisory committee, the advisory committee will still have 30 days for review and comment before the rule may be adopted.

Provision Added by the Legislature _____

10. Simplify the Process by Which Licensees Provide Proof of CPR Requirements.

The Legislature adopted a provision that repeals language requiring a dentist or dental hygienist, when renewing a license, to provide proof of CPR completion issued by the American Heart Association or the American Red Cross. Instead, S.B. 263 simply requires a licensee to include a written statement affirming that the license holder has completed a CPR course.

Removed Provisions

1. Require That at Least One Board Member Be an Oral Surgeon.

The Legislature did not adopt this Sunset recommendation requiring at least one of the eight dentist members on the Board to be an oral surgeon.

2. Establish a Process for Debt Forgiveness for Services by Dental Professionals in Rural or Underserved Areas.

The Legislature did not adopt this Sunset recommendation requiring the Board to study the issue of forgiveness of student loans for dental professionals who commit to work in underserved areas of the state.

Fiscal Implication Summary

The provisions regarding the State Board of Dental Examiners will result in a fiscal impact to the Board. However, the Board will adjust licensing fees to cover costs of implementing the bill, and as a result, S.B. 263 will not have an impact to the State. These provisions are discussed below, followed by a five-year summary chart.

Reducing the number of Board members from 18 to 15 will result in an annual savings to the General Revenue Fund of approximately \$5,800 due to reduced travel expenses for Board meetings and other Board business.

To accommodate expansion of the regulation of dental assistants, the Board will incur an initial cost of \$12,731 and an estimated increase of \$1,000 per year for data storage. The Board will also need to hire one additional clerk at \$27,132 per year to handle the increased workload associated with the new registrations.

Fiscal Year	Gain to the General Revenue Fund	Savings to the General Revenue Fund	Cost to the General Revenue Fund	Change in Staff Positions From 2003
2004	\$12,731	\$5,800	\$12,731	0
2005	\$28,132	\$5,800	\$28,132	+1
2006	\$28,132	\$5,800	\$28,132	+1
2007	\$28,132	\$5,800	\$28,132	+1
2008	\$28,132	\$5,800	\$28,132	+1

Texas Department of Economic Development

Staff Contact: Jennifer Jones

S.B. 275 Nelson (Solomons/Keffer, J.)

Summary

The Texas Department of Economic Development was created in 1997 when the 75th Legislature abolished the Texas Department of Commerce and transferred its functions to this new agency. The Department has three primary missions: marketing Texas as a premier business location and tourist destination; providing financial, location, and export assistance to Texas businesses and communities; and serving as a central source of economic development information. The Department's annual appropriation is about \$32.4 million and it operates with 127 staff positions.

Senate Bill 275 contains the Sunset Commission's recommendations to abolish the Department and transfer its primary functions to the Office of the Governor; and to improve the coordination of the State's tourism efforts. The Legislature added several other statutory modifications to S.B. 275, including transferring the functions of the Texas Aerospace Commission to the Governor's Office, and establishing an economic development bank for communities and businesses. Overall, S.B. 275 will result in an annual savings of more than \$1.6 million and a reduction of 27 staff positions. The list below summarizes the major provisions of S.B. 275, and a more detailed discussion follows.

Sunset Provisions

1. Abolish the Texas Department of Economic Development and Transfer Its Functions to the Texas Economic Development and Tourism Office Within the Office of the Governor.
2. Improve Coordination Among the State Agencies Involved in Tourism Activities.

Provisions Added by the Legislature

3. Transfer the Functions of the Texas Aerospace Commission to the Texas Economic Development and Tourism Office.
4. Create the Texas Economic Development Bank Within the Office.
5. Simplify the Administration and Operation of the Texas Enterprise Zone Program.
6. Require the Office to Identify Industry Clusters on a Regional and Statewide Basis, and to Assist the Clusters in Strengthening Their Competitiveness.
7. Require the Office to Coordinate State Efforts Regarding Advanced Technology Industries in the State.
8. Require the Office to Establish Incentive Grants for Fuel Ethanol and Biodiesel Producers.

9. Authorize Certain Cities and Counties to Use State and Local Taxes to Support Major Sporting Events.
10. Require the Office to Promote the Sports Industry and Related Industries in This State.

Sunset Provisions

1. Abolish the Texas Department of Economic Development and Transfer Its Functions to the Texas Economic Development and Tourism Office Within the Office of the Governor.

Senate Bill 275 establishes a new structure and focus for the State's economic development efforts. The bill abolishes the Texas Department of Economic Development and transfers its primary functions to the Texas Economic Development and Tourism Office (the Office) within the Office of the Governor, headed by an Executive Director appointed by the Governor. The legislation specifies that the primary functions of the Office include:

- marketing and promoting the state as a premier business location and tourist destination;
- facilitating the location, expansion, and retention of domestic and international business investment to the state;
- promoting and administering business and community economic development programs and services in the state, including business incentives programs;
- providing Texas businesses and communities assistance with exporting products and services to international markets; and
- serving as a central source of economic research and information.

The bill also continues the Office for the standard 12-year period and requires the current staff of the Department to re-apply for their positions at the Office.

2. Improve Coordination Among the State Agencies Involved in Tourism Activities.

Instead of reducing the number of state entities involved in tourism activities, the Legislature modified the Sunset provision to improve coordination among the tourism agencies. Senate Bill 275 designates the Texas Economic Development and Tourism Office as the primary state entity responsible for out-of-state tourism marketing and promotion efforts. The bill also requires the Office to enter into a memorandum of understanding (MOU) with the Texas Parks and Wildlife Department, Department of Transportation, Historical Commission, and Commission on the Arts to direct the efforts of these agencies in all matters related to tourism, including each agency's tourism priorities and activities. The MOU also authorizes the Office to direct the agencies to develop an annual strategic tourism plan, and to share costs related to administrative support of tourism activities.

Provisions Added by the Legislature

3. Transfer the Functions of the Texas Aerospace Commission to the Texas Economic Development and Tourism Office.

The Legislature added a provision to update and transfer the functions of the Texas Aerospace Commission to the Aerospace and Aviation Office within the Texas Economic Development and Tourism Office. The bill requires the Aerospace and Aviation Office to perform the following duties.

- Analyze the State's economic position in aerospace and aviation industries.
- Develop short and long-term business strategies as part of an industry-specific strategic plan to promote aerospace and aviation industry facilities in the state.
- Act as a liaison with other state and federal entities to support marketing the State's aerospace and aviation capabilities.
- Promote and develop spaceports in this state.
- Provide technical support and expertise regarding aerospace and aviation business matters.

Senate Bill 275 abolishes the seven-member policymaking body of the Texas Aerospace Commission, but requires the Governor to appoint a seven-member Aerospace and Aviation Advisory Committee. The Executive Director of the Texas Aerospace Commission becomes the Director of the Aerospace and Aviation Office. See page 13 of this report for more details on this transfer.

4. Create the Texas Economic Development Bank Within the Office.

The Legislature added this provision to create the Texas Economic Development Bank to ensure that communities and businesses have access to capital for economic development purposes. The bill creates the Economic Development Bank by combining several existing financial incentive programs, including the Capital Access Program and the Texas Leverage Fund. The bill requires the bank to provide competitive, cost-effective state incentives to expanding businesses relocating to or operating in this state and to assist these entities in accessing capital to fund their economic development efforts.

5. Simplify the Administration and Operation of the Texas Enterprise Zone Program.

The Legislature made several changes to the Texas Enterprise Zone program to simplify access to and operation of the program. The bill removes the zone application requirement and instead, authorizes areas to automatically qualify based on poverty levels. The bill also removes the seven-year zone designation time limit and authorizes the zone designation to remain in effect as long as an area qualifies, based on its poverty level. The bill requires the Comptroller to perform a single audit to review eligible expenditures and the number of jobs created.

The bill also authorizes the Office to designate multiple concurrent enterprise projects and establishes different levels of tax refunds based on the amount of capital investment made in the project, and the number of jobs created or retained. Finally, the bill makes the program self-funded by requiring 3 percent of any tax benefit received as a result of participating in the program to be transferred to the bank.

6. Require the Office to Identify Industry Clusters on a Regional and Statewide Basis, and to Assist the Clusters in Strengthening Their Competitiveness.

The Legislature added this provision that requires the Office to identify industry clusters and evaluate the effectiveness of providing services to them, including the potential return to the state from devoting resources to a targeted industry cluster.

7. Require the Office to Coordinate State Efforts Regarding Advanced Technology Industries in the State.

As part of the Office's focus on industry clusters, the Legislature also added this provision to require the Office to coordinate state efforts to attract, develop, or retain advanced technology industries in the state, including semiconductor, information and computer technology, biotechnology, and nanotechnology.

8. Require the Office to Establish Incentive Grants for Fuel Ethanol and Biodiesel Producers.

The Legislature added this provision to require the Office to establish a grant program for fuel ethanol and biodiesel producers as an incentive for the development of the renewable fuel industry in Texas. Through the legislation, producers are eligible to receive a 20 cent per gallon grant for each gallon of fuel produced. The bill establishes a fuel ethanol and biodiesel production account to fund the grants. The account consists of a 3.2 cent per gallon fee on producers and a general revenue match of 5.25 times the amount of fees collected.

9. Authorize Certain Cities and Counties to Use State and Local Taxes to Support Major Sporting Events.

The Legislature added this provision that allows certain cities and counties to capture and use the incremental portion of state and local taxes that are generated when a major sporting event occurs to help cover costs related to the event. These costs may include bidding for, preparing for, and conducting the event. Senate Bill 275 authorizes the Office of the Comptroller and the Texas Economic Development and Tourism Office to control the deposit and disbursement of these funds. The taxes include sales taxes, hotel occupancy taxes, and alcohol beverage taxes; and the incremental amount is determined by the Comptroller.

10. Require the Office to Promote the Sports Industry and Related Industries in This State.

The Legislature added this provision to require the Office to promote the sports industry and related industries in this state, if funds are appropriated for this purpose. The Office will promote Texas as a host for national and international amateur athletic competition, and other sports or fitness programs. Senate Bill 275 also authorizes the Governor to establish a Texas Sports Commission, composed of volunteers who are knowledgeable about or active in amateur sports.

Removed Provision

1. Exempt Tourism Advertising and Placement Expenditures From State HUB Subcontracting Requirements.

The Legislature did not adopt the Sunset recommendation exempting the Department's tourism advertising and placement services expenditures from state Historically Underutilized Business (HUB) subcontracting requirements.

Fiscal Implication Summary

Senate Bill 275 will result in an annual savings of more than \$1.5 million and a reduction of 25 staff positions. Abolishing the Texas Department of Economic Development and transferring its primary economic development functions to the Governor's Office will result in an annual savings of \$1,348,966 in administration costs and a reduction of 25 staff positions. Streamlining state economic development functions will result in an additional savings of \$176,200. Transferring the functions of the Texas Aerospace Commission will result in additional annual savings of \$127,689 and a reduction of two staff positions, as discussed on page 13 of this report.

Fiscal Year	Savings to the General Revenue Related Funds	Change in Staff Positions From 2003
2004	\$1,525,166	-25
2005	\$1,525,166	-25
2006	\$1,525,166	-25
2007	\$1,525,166	-25
2008	\$1,525,166	-25

State Board for Educator Certification

Staff Contact: Erica Wissolik

S.B. 265 Lucio (Grusendorf)

Summary

The State Board for Educator Certification (SBEC) oversees the preparation and regulation of public school educators. The State Board for Educator Certification operates as an independent agency with 52 staff and an annual budget of about \$21 million. The Legislature created SBEC in 1995 in a rewrite of the Texas Education Code. Before 1995, the Texas Education Agency (TEA) was responsible for teacher certification. Statutory requirements for educator certification have expanded significantly since that time.

Senate Bill 265 as introduced contained all of the Sunset Commission's recommendations on SBEC. The recommendations included continuing the Board for 12 years, authorizing the State Board of Education (SBOE) to accept or reject portions of each SBEC rule (rather than simply rejecting rules in their entirety as the statute currently requires), and requiring SBEC to collect fingerprints and conduct national criminal background checks of prospective educators.

Senate Bill 265 as passed by the Senate also included an amendment that granted the Board independent rule-making authority by removing SBOE oversight. The House Committee on Public Education passed a complete substitute of the Senate bill. The substituted bill removed nearly all Sunset and Senate provisions, transferred SBEC to TEA, and granted rulemaking authority for educator certification to the Commissioner of Education. However, the bill assigned rulemaking and oversight related to enforcement and ethics to a modified SBEC. The House did not take action before its deadline for passing Senate bills. As a result, S.B. 265 failed passage.

However, separate legislation continued SBEC for two years. House Bill 2455 continues SBEC until 2005 and requires the Sunset Commission to focus its next review of SBEC on the appropriateness of its previous recommendations to the 78th Legislature. The bill also requires SBEC and TEA to enter into a memorandum of understanding (MOU) to consolidate administrative functions and services, and for the Sunset Commission to review compliance with the MOU between the agencies. Continuing SBEC for two years will allow the Sunset Commission to examine these issues during the same review period as TEA, and make recommendations to the 79th Legislature.

Texas Board of Professional Engineers

Staff Contact: Meredith Whitten

S.B. 277 Ellis (Chisum, et al)

Summary

The Texas Board of Professional Engineers (the Board) traces its roots to 1937, when the Legislature created the State Board of Registration for Professional Engineers after an explosion at the New London School killed nearly 300 students and teachers. To accomplish its goal of protecting the public's health, safety, and welfare, the Board licenses those individuals who provide services to the public as Professional Engineers; investigates and resolves complaints alleging illegal or incompetent practice of engineering by both licensed and unlicensed persons; and enforces the Texas Engineering Practice Act and takes disciplinary action when necessary.

Senate Bill 277 continues the Board for 12 years, and contains the Sunset Commission's recommendations to strengthen the Board's enforcement efforts, enhance coordination with the Texas Board of Architectural Examiners, and allow certain individuals who are exempt from licensing requirements to use the title "engineer." The Legislature adopted all of the Sunset Commission's recommendations and added several other statutory modifications to S.B. 277. The list below summarizes the major provisions of S.B. 277, and a more detailed discussion follows.

Sunset Provisions

1. Require the Board to Increase Public Access to Its Enforcement Process, Prioritize Complaints, and Track and Report Complaint Information Annually.
2. Conform Key Elements of the Texas Engineering Practice Act to Commonly Applied Licensing Practices.
3. Clarify the Board's Authority to Regulate Nonlicensees and Use of the Title "Engineer."
4. Continue the Board for 12 Years and Require the Board to Form a Joint Practice Committee With the Texas Board of Architectural Examiners.

Provisions Added by the Legislature

5. Require the Board to Redact All Identifying Information From Frivolous Complaints.
6. Authorize the Board to Establish an Inactive License Status.
7. Clarify That the Board Has Disciplinary Authority Over Individuals Providing Expert Testimony.
8. Require the Board to Issue Advisory Opinions Regarding the Application of the Texas Engineering Practice Act.
9. Specify That Certain NASA-Related Activities Are Exempt From the Act.
10. Require the Board to Develop Continuing Education Programs for Its Licensees.

Sunset Provisions

1. Require the Board to Increase Public Access to Its Enforcement Process, Prioritize Complaints, and Track and Report Complaint Information Annually.

Senate Bill 277 improves the public's access to the Board's enforcement process and strengthens the Board's ability to enforce the Texas Engineering Practice Act. Under provisions in the bill, the Board must clearly define, in rule, the method for filing a complaint with the Board and post the process – as well as a complaint form the public can use – on the Board's Web site. The bill clarifies that complainants need only provide enough information to prove that the Board has jurisdiction and that Board staff – not the complainant – is responsible for investigating complaints. And, to ensure that the Board focuses on complaints that allege actions that could potentially harm the public, S.B. 277 requires the Board to prioritize complaints.

To address complaints that involve expertise beyond the Board's in-house engineering resources, S.B. 277 authorizes the Board to seek advice from technical experts on enforcement cases. Technical experts who assist the Board will be immune from civil liability for any damage caused in the performance of their official duties, in the absence of fraud, conspiracy, or malice. The bill also requires the Board to compile detailed statistics about complaints received and resolved each year and provide this information in its annual financial report.

Finally, the Board can establish a 30-day grace period, after written notification, for firms registering with the Board for the first time. Firms that comply within the 30-day period will have no record of enforcement action taken against them. Firms failing to renew their registration are subject to enforcement action when their registration expires.

2. Conform Key Elements of the Texas Engineering Practice Act to Commonly Applied Licensing Practices.

To bring the Board in line with standard licensing agency practices, S.B. 277 includes the following provisions.

- Eliminates the requirement that applicants must submit separate character references as a qualification for licensure.
- Eliminates the application notarization requirement on individuals who apply for licensure with the Board.
- Clarifies that the Board must address felony and misdemeanor convictions in the standard manner defined in the Occupations Code.
- Requires the Board to ensure that its exams are accessible to persons with disabilities in accordance with the Americans with Disabilities Act.
- Requires Board members to recuse themselves from voting on disciplinary actions in cases in which they participated in investigations or informal hearings.
- Requires agency staff to report administratively dismissed complaints to the Board.
- Requires the Board to adopt a probation guide.

- Authorizes the Board to require restitution as part of the settlement conference process.
- Eliminates the statutory language that sets and caps fees.

3. Clarify the Board’s Authority to Regulate Nonlicensees and Use of the Title “Engineer.”

The Legislature modified the Sunset provision to clarify that full-time employees who perform engineering through their work for private manufacturers and are exempt from licensing requirements may use the title “engineer” on business cards and in correspondence. These industry-exempt engineers may not offer engineering services to the public or imply that they can make engineering judgments that require a Professional Engineer license. The bill limits use of the titles “Professional Engineer” and “licensed Professional Engineer” to those individuals who hold a license from the Board. Senate Bill 277 increases the disincentives for unlicensed individuals to hold themselves out to the public by specifying that any exempt individual who uses the title “engineer” and offers services to the public cannot claim an exemption for 10 years.

4. Continue the Board for 12 Years and Require the Board to Form a Joint Practice Committee With the Texas Board of Architectural Examiners.

Senate Bill 277 continues the Board as a separate, stand-alone agency for the standard 12-year period. The bill also requires the Board to form a joint practice committee with the Texas Board of Architectural Examiners to address overlap among the professions regulated by the two agencies. The Legislature modified the Sunset recommendation to specify that the committee consist of eight members – three members from each board, one practicing architectural engineer appointed by the Board, and one practicing architect appointed by the Architects Board.

Provisions Added by the Legislature

5. Require the Board to Redact All Identifying Information From Frivolous Complaints.

The Legislature added this provision to provide that complaints filed with the Board, including those deemed frivolous by the Board, are public information. However, the Board must redact all personal and identifying information about a licensee on frivolous complaints.

6. Authorize the Board to Establish an Inactive License Status.

Under this provision added by the Legislature, a license holder may request inactive status at any time before the person’s license expires. A license holder on inactive status may not practice engineering, is not required to comply with continuing education requirements, and does not have to pay the \$200 occupations fee that licensees must pay. To return to active status, a licensee does not have to retake the exam, but must request reinstatement in writing, pay the annual license renewal amount, and provide evidence satisfactory to the Board that the person has complied with continuing education requirements.

7. Clarify That the Board Has Disciplinary Authority Over Individuals Providing Expert Testimony.

This provision subjects a person who provides expert witness testimony to the Board's enforcement and disciplinary authority.

8. Require the Board to Issue Advisory Opinions Regarding the Application of the Texas Engineering Practice Act.

The Legislature added this provision to require the Board, on its own initiative or at the request of any interested person, to prepare and maintain advisory opinions about the interpretation or application of the Texas Engineering Practice Act in regard to a specified or hypothetical situation. The Board must annually compile a summary of the advisory opinions and make this information available on the Internet. This provision specifies that it is a defense to prosecution or imposition of a civil penalty if an individual relies on an advisory opinion from the Board.

9. Specify That Certain NASA-Related Activities Are Exempt From the Act.

Under this provision, businesses – and employees of those businesses – that provide products or services to the National Aeronautics and Space Administration are exempt from the requirements of the Texas Engineering Practice Act. The provision also clarifies that employees working in such NASA-related activities may use the terms “engineer” or “engineering” in their job titles.

10. Require the Board to Develop Continuing Education Programs for Its Licensees.

The Legislature added detail to a Sunset across-the-board recommendation regarding continuing education. This provision prohibits the Board from requiring a license holder to complete more than 15 hours of continuing education annually. The provision also specifies the types of activities for which a licensee may receive continuing education credit, including participating in an in-house course sponsored by a corporation or other business entity; publishing an article, paper, or book on the practice of engineering; and engaging in self-directed study.

Fiscal Implication Summary

This legislation will not have a fiscal impact to the Board or the State.

Texas Ethics Commission

Staff Contact: Karen Latta

H.B. 1606 Wolens (Ellis)

Summary

The Texas Ethics Commission (the Commission) administers and enforces the state's ethics laws which govern the conduct of state officers and employees, candidates for state and local offices, political committees, lobbyists, and certain district and county judicial officers. Created by a constitutional amendment adopted by the voters in 1991, the Commission's major functions include ensuring public access to financial disclosure reports, investigating and resolving complaints regarding ethics law violations, and issuing advisory opinions. The Commission has 35 staff positions and an annual appropriation of about \$2 million. Since the Ethics Commission was created in the Constitution, it is subject to review, but not abolishment, under the Sunset Act.

The Sunset Commission's recommendations regarding the Ethics Commission were originally included in House Bill 795 by Representative Burt Solomons and Senate Bill 268 by Senator Rodney Ellis. However, early in the legislative session, Representative Steve Wolens merged the Sunset recommendations into his omnibus ethics reform bill, House Bill 1606. This bill contains all of the Sunset Commission's recommendations and many other provisions added by the Legislature concerning the Ethics Commission's procedures, campaign finance, lobbying, personal financial disclosures, and standards of conduct for legislators and state officers. The bill will have a positive fiscal impact to the State of \$3.2 million in the 2004-2005 biennium. The list below summarizes the major provisions of H.B. 1606, and a more detailed discussion follows.

Sunset Provisions

1. Grant the Commission Additional Authority to Conduct Investigations.
2. Remove Unnecessary Steps in the Commission's Complaint Process.
3. Establish Timelines for Resolving Complaints.
4. Expand the Use of the Commission's Electronic Filing System.
5. Improve the Quality and Accessibility of Public Information Provided by the Agency.
6. Allow the Commission to Terminate the Campaign Treasurer Appointments of Inactive Candidates and Political Action Committees.

Provisions Added by the Legislature

7. Strengthen the Ethics Commission's Ability to Enforce Ethics Laws.
8. Increase Penalties for Late-filed Reports.

9. Set New Standards for Disclosures on Political Advertising.
10. Establish Additional Controls Over Campaign Finances.
11. Establish Additional Standards of Conduct for Members of the Legislature and Government Employees.
12. Require Members of the Legislature and State Officers to Disclose Additional Personal Financial Information and Potential Conflicts of Interest.
13. Require Certain Local Officials to File Personal Financial Disclosure Statements.
14. Clarify Lobbyist Conflict of Interest Provisions and Reporting Requirements.
15. Establish Stricter Controls Over the Campaign Finances of Candidates for Speaker of the Texas House of Representatives.

Sunset Provisions

1. Grant the Commission Additional Authority to Conduct Investigations.

The Legislature adopted the Sunset provision, with modifications, to allow the agency to investigate complaints more thoroughly while still maintaining the confidentiality of all complaint information. Ethics Commission staff will be able to talk to third parties, such as witnesses, without breaching confidentiality, as long as they make a good faith effort to appropriately investigate a complaint and maintain confidentiality and the Executive Director approves. The bill also lowers the penalty for staff who breach confidentiality from a Class A to a Class C misdemeanor.

The bill allows the Commission to issue subpoenas for documents and witnesses early in the complaint investigation process. Six of the eight Commissioners must vote to issue a subpoena. The Commission will only use its subpoena power when it reasonably believes the information is necessary to an investigation and cannot be obtained through other means.

The bill allows the Executive Director to refer complaints alleging Penal Code violations to a prosecuting attorney. The Ethics Commission's confidentiality requirements apply to the prosecuting attorney upon referral of a complaint.

2. Remove Unnecessary Steps in the Commission's Complaint Process.

House Bill 1606 removes the requirement that the Commission must vote to accept jurisdiction of a complaint. The legislation authorizes the Executive Director to determine jurisdiction, which will expedite the complaint process at the outset. If the Executive Director denies jurisdiction of a complaint, the complainant can ask the Commission to reconsider the decision.

The bill also removes the additional informal hearing stage from the complaint process. The preliminary review hearing stage will act as the only informal hearing, further streamlining the process.

3. Establish Timelines for Resolving Complaints.

The Legislature modified the Sunset provision to set specific timelines for resolving complaints. This provision requires the subject of a complaint to respond to the Commission's request for information within a specific number of days, depending on the complexity of the complaint. Failing to respond by the deadline will constitute a separate violation. If the Commission does not resolve a complaint within a certain amount of time, the Commission must set a date for a preliminary review hearing to hear evidence in the case.

4. Expand the Use of the Commission's Electronic Filing System.

The Legislature modified the Sunset provision to limit the use of the exemption from electronic filing for those who do not use computers to maintain their campaign finance information. House Bill 1606 only allows filers to use the no-computer exemption if they receive or spend less than \$20,000 in a year.

The Legislature adopted the Sunset recommendation to require the Commission to develop an electronic filing system for lobbyists, and added a provision to include electronic reports from

candidates for Speaker of the House of Representatives. To cover the costs of developing and implementing the electronic filing system for lobbyists, the Commission is allowed to assess an additional fee on lobbyists' registrations for calendar years 2004 and 2005.

The bill also makes the following improvements to the electronic filing system.

- Removes the exemption from electronic filing for district judges and district attorneys.
- Removes the specific software requirements for the electronic filing system.
- Requires the Commission to develop a confirmation mechanism for the electronic filing system.
- Requires the Commission to post all electronic reports on the Internet within two business days of filing, which is a provision added by the Legislature.

5. Improve the Quality and Accessibility of Public Information Provided by the Agency.

House Bill 1606 contains several provisions to improve the quality and accessibility of public information about the Commission's enforcement process and activities. These provisions require the Commission to:

- put the complaint form on its Web site;
- develop plain-language materials describing what to expect during the complaint and enforcement process; and
- inform the public through its Web site of all enforcement orders that are not confidential.

6. Allow the Commission to Terminate the Campaign Treasurer Appointments of Inactive Candidates and Political Action Committees.

The Legislature modified the Sunset provision to allow the Commission to stop tracking candidates and political committees that are no longer politically active, but that have not filed the necessary final report. The Commission will adopt rules governing how and when it will terminate the campaign treasurer appointments of inactive candidates and committees. This provision does not apply to candidates who win their elections.

Provisions Added by the Legislature

7. Strengthen the Ethics Commission's Ability to Enforce Ethics Laws.

House Bill 1606 makes several changes, in addition to the Sunset Commission recommendations, to improve the agency's ability to enforce ethics laws. For example, the bill establishes a two-tiered enforcement process in which complaints are categorized as either Category 1, which are simpler to resolve, or Category 2, which are more complex. The bill defines what alleged violations constitute Category 1 and Category 2, and sets timelines for the resolution of the two types of complaints, as noted above in Provision 3. The bill also lowers the evidence standard, from clear and convincing to a preponderance of the evidence, which the Commission must use in a formal hearing to determine whether a violation has occurred.

The bill also requires the Commission to:

- check compliance on randomly selected financial disclosure reports;
- biennially report the number of sworn complaints processed and the amount of civil penalties assessed for late filings; and
- post information on its Web site about candidates who fail to pay penalties for late filing.

8. Increase Penalties for Late-filed Reports.

House Bill 1606 increases the civil penalty for late-filed reports, including campaign finance reports, lobby activity reports, and personal financial statements, from \$100 to \$500, and enhances penalties for late filing of a report that is due immediately before an election. Another provision in the bill allows a person to bring an injunctive action against a candidate, officeholder, or political committee that fails to file a campaign finance report on time.

9. Set New Standards for Disclosures on Political Advertising.

House Bill 1606 requires political advertising containing express advocacy to include a disclosure of who paid for or authorized the advertising. Any political advertising that is authorized by a candidate, an agent of a candidate, or a political committee is considered express advocacy. A violation of this provision can result in a civil penalty, to be determined by the Commission, of up to \$4,000. The bill also expands the definition of political advertising to include information posted on an Internet Web site.

10. Establish Additional Controls Over Campaign Finances.

House Bill 1606 establishes several additional campaign finance requirements for candidates and officeholders. For example, the bill extends the ban on political contributions to statewide officeholders and members of the Legislature from the end of the legislative session to the end of the Governor's veto period. Candidates and officeholders must keep their campaign contributions in accounts separate from all other accounts. All financial disclosure filers must report the total amount of campaign contributions they have accumulated over time, not just the amount they accepted during the previous reporting period. Candidates for and officeholders of statewide executive offices and legislative offices must report additional information about contributors who give more than \$500, including the contributor's principal occupation or job title and employer's name. All candidates must report, within one business day, donations of more than \$1,000 received during the last eight days before an election.

The bill requires out-of-state political committees that raise or spend money in Texas to file financial disclosure reports with the Ethics Commission. Another provision requires certain political committees to report any expenditures from corporations or labor organizations to:

- establish or administer the committee, or
- finance the solicitation of political contributions for the committee.

The bill also requires candidates for the office of county chair of a political party in a county with a population of 350,000 or more to file campaign finance reports with the Ethics Commission.

11. Establish Additional Standards of Conduct for Members of the Legislature and Government Employees.

House Bill 1606 prohibits a member of the Legislature from representing another person for compensation before an executive branch state agency, unless the representation is:

- pursuant to an attorney-client relationship in a criminal law matter, or
- involves only the filing of documents for strictly ministerial purposes.

The bill also prohibits an officer or employee of a governmental body from knowingly misusing confidential information.

12. Require Members of the Legislature and State Officers to Disclose Additional Personal Financial Information and Potential Conflicts of Interest.

House Bill 1606 requires legislators and state officers to disclose additional information about their personal finances and potential conflicts of interest. For example, filers must report information about any mutual funds or blind trusts they hold and the address of real property they own. Legislators who are lawyers must report all legislative continuances they receive. State officers who are lawyers must report all referrals for legal services they make and the amount of any fee accepted for that referral. Legislators must file a notice before introducing, sponsoring, or voting on a measure for which a close relative is lobbying. This provision requires the lobbyist to disclose that same relationship. The bill also requires gubernatorial appointees to file personal financial disclosure statements within 14, rather than 30, days of their appointment or before their confirmation hearing, whichever comes first.

13. Require Certain Local Officials to File Personal Financial Disclosure Statements.

Many local officials will now be required to file disclosure statements with information about their personal finances. House Bill 1606 requires the following local officials to file annual personal financial statements:

- municipal officers in cities with a population of 100,000 or more;
- trustees of independent school districts with an enrollment of at least 5,000 students;
- directors of sports and community venue districts; and
- members of the governing bodies of port authorities and navigation districts.

To enforce these filing requirements, the bill establishes a system for county clerks and city secretaries to notify their local prosecuting attorneys when a municipal or county officer fails to timely file the required reports. The bill also establishes penalties for failure to file.

14. Clarify Lobbyist Conflict of Interest Provisions and Reporting Requirements.

House Bill 1606 clarifies the circumstances under which lobbyists are prohibited from representing a client due to a conflict of interest. The Commission may impose a penalty of up to \$2,000 and revoke a lobbyist's registration for a violation of the conflict of interest provisions.

The bill also raises the daily amount a lobbyist may spend on a legislator that triggers detailed reporting requirements. Lobbyists can spend up to 60 percent of the legislative per diem, approximately \$75, rather than the current \$50, before they must provide detailed expenditure reports. Another provision allows the Commission to provide ethics training seminars for lobbyists and to charge attendees a fee to recover the cost of the seminars.

15. Establish Stricter Controls Over the Campaign Finances of Candidates for Speaker of the Texas House of Representatives.

House Bill 1606 establishes new controls over the race for the Speaker of the House. For example, Speaker candidates will have to declare their candidacy before they can collect or spend campaign donations. Speaker candidates will have to file their campaign finance reports electronically with the Ethics Commission. The bill places restrictions on how and when former Speaker candidates must dispose of unexpended campaign funds and requires former Speaker candidates to continue filing campaign finance reports until all unexpended funds are spent. The bill also strengthens penalties for Speaker candidates who fail to follow these provisions.

Removed Provision

1. Allow the Commission to Share Confidential Investigatory Information With Other Appropriate Agencies.

The Legislature did not adopt this Sunset recommendation to allow the Commission to share confidential investigatory information with the State Commission on Judicial Conduct, the State Bar of Texas, and appropriate law enforcement agencies.

Fiscal Implication Summary

House Bill 1606 contains provisions that will have an overall positive fiscal impact to the State of approximately \$3.2 million during the 2004-2005 biennium. These provisions are discussed below, followed by a five-year summary chart.

Streamlining the complaint process by removing one hearing step and accelerating complaint resolution deadlines will result in the Commission referring more cases to the State Office of Administrative Hearings at a cost of \$15,000 per year. The agency will also need an additional attorney to assist in these cases.

Granting the Commission subpoena authority during the investigation stage of the complaint process will require the agency to spend approximately \$1,125 per year to issue subpoenas.

Developing and implementing an electronic filing system for lobbyists and Speaker candidates will result in additional programming, hardware, software, and technical support costs, totaling \$225,206 in the first year. The Commission will only need to pay for the costs of programming and hardware in the first year, however the software and technical support costs will be on-going. Further, the bill allows the Commission to charge lobbyists an additional fee in the first two years to cover the costs of the lobby filing system, resulting in no net cost for the Commission.

Numerous provisions in the bill will require additional administrative and legal work. These provisions include: requiring the Commission to review randomly selected reports for completeness; providing ethics training to lobbyists; implementing additional reporting requirements; and requiring approximately 5,600 more individuals to file financial statements with the agency. As a result, the agency will need to hire three administrative technicians and two

Fiscal Year	Gain to the General Revenue Fund	Cost to the General Revenue Fund	Change in Staff Positions From 2003
2004	\$3,585,606	\$547,431	+7.0
2005	\$438,480	\$289,105	+7.0
2006	\$3,370,000	\$289,105	+7.0
2007	\$390,000	\$289,105	+7.0
2008	\$3,370,000	\$289,105	+7.0

attorneys. The agency will also need to spend \$182,100 to upgrade the existing electronic filing system to incorporate the new financial disclosure filing requirements.

Increasing the civil penalties for late-filed reports will generate additional revenue to the State of approximately \$3.37 million during election years and \$390,000 during non-election years.

Texas Funeral Service Commission

Staff Contact: Erica Wissolik

H.B. 1538 Chisum, et al (Shapleigh)

Summary

The Texas Funeral Service Commission (TFSC) was created in 1987 by expanding the authority and changing the name of the State Board of Embalming. The Commission regulates the funeral industry to protect the public from deceptive funeral practices. The Commission licenses about 5,000 funeral directors and embalmers, inspects and licenses 1,280 funeral homes and commercial embalming establishments, registers approximately 200 cemeteries and crematories, and investigates and resolves complaints regarding the industry from consumers or initiated by the agency. The Texas Funeral Service Commission operates on a \$1 million budget, collects approximately \$1.2 million in revenue from industry fees, and has 12 full-time employees.

House Bill 1538 continues the Commission for 12 years, and contains the Sunset Commission's recommendations to enhance consumer protection, authorize greater regulatory authority over cemeteries and crematories, and provide stakeholder input in the rulemaking process. The Legislature adopted all the Sunset recommendations, with modifications; and added provisions relating to cemetery regulation, Commission duties, and provisional licenses. The list below summarizes the major provisions of H.B. 1538, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Commission for 12 Years, and Require Earlier Consumer and Industry Input on Rules.
2. Give the Commission Greater Regulatory and Enforcement Authority Over Cemeteries and Crematories.
3. Clearly Delineate the Authority of State Agencies to Address Consumer Complaints About Cemeteries.
4. Clarify TFSC's Authority to Define Standards of Professional and Ethical Conduct.
5. Prohibit Funeral Vendors or Service Providers from Making Misleading Statements.

Provisions Added by the Legislature

6. Establish Rotating Terms for the Commission Chair.
7. Create More Effective Complaint Review and Enforcement Processes.
8. Require the Finance Commission to Adopt Rules to Address Certain Perpetual Care Cemetery Services.

9. Exempt Certain Cemeteries From Regulation by the Commission and the Department of Banking.
10. More Clearly Define Certain Requirements for Provisional Funeral Directing Licenses.

Sunset Provisions

1. Continue the Commission for 12 Years, and Require Earlier Consumer and Industry Input on Rules.

This provision continues the Texas Funeral Service Commission for the standard 12-year period until 2015, and requires the Commission to develop guidelines for ensuring input from persons affected by a proposed rule, before the rule is published in the *Texas Register*.

2. Give the Commission Greater Regulatory and Enforcement Authority Over Cemeteries and Crematories.

The bill expands TFSC's authority to regulate crematories in the Commission's enabling statute in the Occupations Code, but modifies the Sunset recommendation to create a new chapter in the Health and Safety Code to regulate crematories. The Legislature also added a provision to prohibit TFSC inspections of perpetual care cemeteries, and to limit TFSC inspections of other cemeteries to within two years of an interment, or upon receipt of a complaint.

3. Clearly Delineate the Authority of State Agencies to Address Consumer Complaints About Cemeteries.

House Bill 1538 clearly defines the rulemaking authority of the Department of Banking (perpetual care cemeteries) and TFSC (non-perpetual care cemeteries) regarding cemetery regulation, and ensures that the Department of Banking retains the authority to enforce the financial regulation of perpetual care cemeteries. The bill authorizes the Commission to make rules, and enforce rules previously promulgated by the Texas Department of Health, including regulations on where cemeteries may be located and authority over interment, disinterment, disposal, and transportation of bodies, and to address related consumer complaints. The bill also authorizes shared responsibility between TFSC and the Texas Historical Commission for consumer complaints against historical cemeteries.

4. Clarify TFSC's Authority to Define Standards of Professional and Ethical Conduct.

House Bill 1538 authorizes the Commission to define all standards of professional conduct and ethical behavior for funeral directors, embalmers, crematory operators, funeral and embalming establishments, cemeteries, and crematories; and specifically prohibits behaviors such as fraud and forgery of a physician's signature on a death certificate. The bill also authorizes the Commission to define unethical treatment of a body after burial.

5. Prohibit Funeral Vendors or Service Providers from Making Misleading Statements.

House Bill 1538 specifically prohibits all vendors of funeral goods and services from making fraudulent statements or false claims to consumers.

Provisions Added by the Legislature

6. Establish Rotating Terms for the Commission Chair.

The Legislature adopted a provision to require the Governor to alternate every three years, between a public member and an industry member when selecting the Commission Chair.

7. Create More Effective Complaint Review and Enforcement Processes.

The Legislature added a provision to create a three-member panel of Commission members to review complaint cases and determine whether a funeral director's or embalmer's license should be temporarily suspended or restricted, if the license holder's continued activity would constitute a continuing threat to the public.

8. Require the Finance Commission to Adopt Rules to Address Certain Perpetual Care Cemetery Services.

The Legislature added a provision that requires the Finance Commission to adopt rules under the Department of Banking's regulation of perpetual care cemeteries to establish reasonable standards for timely placement of burial markers or monuments in a perpetual care cemetery, and to increase the amount of money a perpetual care cemetery must deposit into perpetual care fund accounts.

9. Exempt Certain Cemeteries From Regulation by the Commission and the Department of Banking.

The Legislature added a provision to exempt from TFSC and Department of Banking regulation all family, community, and fraternal cemeteries smaller than 10 acres, and all public cemeteries owned by the state, a county, or a municipality.

10. More Clearly Define Certain Requirements for Provisional Funeral Directing Licenses.

The Legislature added this provision to amend time limits for provisional funeral directing licenses and training requirements for provisional licensees. This provision allows persons to receive their provisional licenses and to begin training at a licensed funeral establishment prior to, or concurrently with, mortuary school enrollment. This provision also sets minimum time requirements for provisional license training, and removes the requirement that a provisional licensee take TFSC's written exam.

Fiscal Implication Summary

Overall, these changes will have no fiscal impact on the State. The provision to increase regulation of cemeteries and crematories could result in increased inspection and investigation costs, but increased licensing fees will cover these costs.

Texas Higher Education Coordinating Board

Staff Contact: John Hawkins

S.B. 286 Shapleigh (Morrison)

Summary

The Texas Higher Education Coordinating Board (the Coordinating Board) was created in 1965 to provide leadership and coordination among Texas' public higher education institutions. To this end, the Coordinating Board establishes state higher education plans; reviews and recommends changes in formulas for allocation of state funds to public institutions; approves and coordinates degree programs at higher education institutions and the construction of major facilities at public universities; and administers state and federal financial aid programs. The Coordinating Board operates with an annual budget of about \$490 million. About \$17.4 million is used for the agency's operating budget – the remaining amount is trusteeed to the agency through special item appropriations that the agency ultimately allocates to higher education institutions and students throughout the state. The agency has a staff of 288.

Senate Bill 286 continues the Coordinating Board for 12 years, and contains the Sunset Commission's recommendations to require the Board to articulate implementation strategies for the higher education plan and to report to the Legislature on statutory and institutional funding changes that best support the plan. The legislation establishes the informal P-16 Council in statute to ensure that coordination efforts among the state's various education agencies are sustained and restructures special-purpose financial aid programs to reduce administrative costs and increase student participation. The Legislature adopted all of the Sunset Commission's recommendations and added several new provisions including requiring the Coordinating Board to publish performance data of general academic institutions on the Board's Internet site. The legislation also repeals the Texas Academic Skills Program replacing it with the Success Initiative for student assessment and developmental education. Senate Bill 286 will have a positive impact of \$3.4 million during the next biennium. The list below summarizes the major provisions of S.B. 286, and a more detailed discussion follows.

Sunset Provisions

1. Require the Coordinating Board to Annually Assess How Well Its Activities Support the Higher Education Plan, *Closing the Gaps*.
2. Require the Coordinating Board to Report Biennially to the Legislature on Changes to the Higher Education Funding System That Best Support the Higher Education Plan.
3. Repeal the Statutory Requirement for the Joint Advisory Committee and Establish the State P-16 Council in Statute.
4. Restructure Loan Forgiveness Programs Into Loan Repayment Programs.
5. Require the Coordinating Board to Conduct a Study of the Laws Relating to Student Financial Aid Programs and Report to the Legislature on Needed Changes.

6. Require the Coordinating Board to Distribute All Hinson-Hazlewood College Student Loan Funds Through the Texas Guaranteed Student Loan Corporation's EFT System.
7. Prohibit the Coordinating Board From Originating Any New, Independent FFELP Loans Through the Hinson-Hazlewood Program.
8. Reduce the Coordinating Board's Size From 18 to Nine Members.
9. Repeal Obsolete Statutory Language in the Education Code.
10. Require the Use of the Common Course Numbering System by All Institutions of Higher Education Under the Direction of the Coordinating Board.
11. Continue the Higher Education Coordinating Board for 12 Years.

Provisions Added by the Legislature

12. Repeal the Texas Academic Skills Program and Enact the Success Initiative for Student Assessment and Developmental Education.
13. Require Reporting by Higher Education Authorities and Certain Non-Profits.
14. Require Collection and Reporting of Institutional Performance Data.
15. Allow Research Project Confidentiality.
16. Establish a Doctoral Incentive Loan Repayment Program.
17. Establish Baccalaureate Degree Pilot Programs at Two-Year Institutions.
18. Evaluate the Feasibility of Mexican American Studies Programs at Two-Year Institutions.

Sunset Provisions

1. Require the Coordinating Board to Annually Assess How Well Its Activities Support the Higher Education Plan, *Closing the Gaps*.

Senate Bill 286 requires the Coordinating Board to periodically review and revise the state's higher education plan, *Closing the Gaps*, to ensure the plan reflects the continuing higher education needs of the state. The bill requires the agency to identify and communicate any policy changes necessary to improve the implementation of the plan, including an analysis of the degree to which the Board's current activities support the plan. The legislation also requires the agency to refocus its biennial higher education status report to the Legislature to be a report on the State's progress toward meeting the goals of the higher education plan, and the statutory changes necessary to assist this effort.

2. Require the Coordinating Board to Report Biennially to the Legislature on Changes to the Higher Education Funding System That Best Support the Higher Education Plan.

Senate Bill 286 requires the Coordinating Board to make a biennial evaluation of the adequacy of the current higher education funding system in supporting the state's higher education plan and submit recommendations for improvement to the Legislature. The bill requires the agency to focus on incentives that can be used within the funding system to encourage institutions to meet the goals of the plan and consider how well the funding system holds institutions accountable.

3. Repeal the Statutory Requirement for the Joint Advisory Committee and Establish the State P-16 Council in Statute.

Senate Bill 286 deletes the statutory requirement for the primarily inactive Joint Advisory Committee and formally creates the State P-16 Council in statute with specific duties, including those of the current Joint Advisory Committee. Specified duties include coordination on teacher recruitment and retention, adult education, and career and technology education and making recommendations to align curriculum and testing between secondary and post-secondary education. The bill specifies that the Council is composed of the Commissioner of Education, the Commissioner of Higher Education, the Executive Director of the Texas Workforce Commission, and the Executive Director of the State Board for Educator Certification.

4. Restructure Loan Forgiveness Programs into Loan Repayment Programs.

To reduce costs, S.B. 286 restructures as loan repayment programs the Teach for Texas Conditional Grant Program, Early Childhood Childcare Provider Student Loan Repayment Program, Part III of the Physician Education Loan Repayment Program, and the Conditional Loan Repayment Program for Attorneys Employed by the Office of the Attorney General. The bill requires the Coordinating Board to provide repayment of traditional student loans for participants who meet the individual program requirements. The bill allows the Coordinating Board to set the structure of repayments by rule and specifies that the new requirements do not apply to students currently funded by the programs.

5. Require the Coordinating Board to Conduct a Study of the Laws Relating to Student Financial Aid Programs and Report to the Legislature on Needed Changes.

Senate Bill 286 requires the Coordinating Board to evaluate improvements the Legislature could make to existing financial aid programs to maximize the benefits of the programs by reducing administrative burdens and increasing student access. The study should include recommendations for legislative action necessary to consolidate, expand, or otherwise modify existing programs. As part of its review, the Coordinating Board should include financial aid officers and student groups as resources.

6. Require the Coordinating Board to Distribute All Hinson-Hazlewood College Student Loan Funds Through the Texas Guaranteed Student Loan Corporation's EFT System.

Senate Bill 286 requires the Coordinating Board to allocate Hinson-Hazlewood loan funds to participating institutions of higher education through the Texas Guaranteed Student Loan Corporation's electronic funds transfer system. If not feasible, the bill allows an institution to request payments using alternate means.

7. Prohibit the Coordinating Board From Originating Any New, Independent FFELP Loans Through the Hinson-Hazlewood Program.

Senate Bill 286 prohibits the Coordinating Board from issuing new Federal Family Education Loan Program loans, except to students already participating in the Hinson-Hazlewood program. The Legislature added a provision that allows the agency to continue making FFELP loans if the Commissioner of Higher Education determines that market conditions warrant.

8. Reduce the Coordinating Board's Size From 18 to Nine Members.

Senate Bill 286 reduces the size of the Higher Education Coordinating Board to nine members, modifying the Sunset Commission's original recommendation of 15 members. The Governor will appoint one-third of the members every two years and the Board will continue to be composed entirely of public members.

9. Repeal Obsolete Statutory Language in the Education Code.

Senate Bill 286 repeals several obsolete provisions in the Education Code, including Subchapter Q, relating to the State Postsecondary Review Program.

10. Require the Use of the Common Course Numbering System by All Institutions of Higher Education Under the Direction of the Coordinating Board.

Senate Bill 286 requires the Coordinating Board to approve the common course numbering system already in use in the state to number and label courses taught at institutions of higher education and requires the institutions to use this numbering system in their course listings. The bill allows the Coordinating Board to exempt institutions from this requirement for good cause.

11. Continue the Higher Education Coordinating Board for 12 Years.

Senate Bill 286 continues the Coordinating Board for 12 years as an independent agency responsible for coordinating the State's system of higher education.

Provisions Added by the Legislature

12. Repeal the Texas Academic Skills Program and Enact the Success Initiative for Student Assessment and Developmental Education.

Senate Bill 286 repeals the Texas Academic Skills Program (TASP), created to assess entering college students to determine their skills in reading, writing, and mathematics and provide educational assistance needed to become college ready if deficiencies were identified. The bill replaces TASP with the Success Initiative to better identify entering students' skill deficiencies, especially any that indicate a low probability of success in freshman-level academic course work. This change allows institutions to address skill deficiencies in a flexible manner that best serves the needs of each student.

13. Require Reporting by Higher Education Authorities and Certain Non-Profits.

The Legislature added a provision that requires the Coordinating Board to collect and make available to the public information regarding higher education authorities and non-profit corporations serving as secondary markets for student loans.

14. Require Collection and Reporting of Institutional Performance Data.

The bill requires the Coordinating Board to publish certain performance data of general academic institutions on the agency's Internet site by March 1, 2005. The bill sets deadlines for institutions to report the information to the Board. The information includes such items as overall grade point average, enrollment percentages by ethnicity, retention of full-time students after completion of one academic year, and statistics regarding job placement rates.

15. Allow Research Project Confidentiality.

Senate Bill 286 establishes confidentiality provisions regarding information submitted as part of a pre-proposal or proposal related to the evaluation and selection of research projects funded by the Advanced Research Program and the Advanced Technology Program.

16. Establish a Doctoral Incentive Loan Repayment Program.

The bill requires the Coordinating Board to establish a doctoral incentive loan repayment program to increase the number of persons in faculty and administrative positions at institutions where those persons are in an underrepresented group. The program will be funded through a \$2 per semester credit hour set-aside from tuition of students enrolled in doctoral degree programs other than a law or health professional degree program.

17. Establish Baccalaureate Degree Pilot Programs at Two-Year Institutions.

The legislation requires the Coordinating Board to establish a pilot project for three two-year institutions to offer baccalaureate degree programs in the fields of applied science and technology. No college in the pilot project may offer more than five baccalaureate degree programs.

18. Evaluate the Feasibility of Mexican American Studies Programs at Two-Year Institutions.

The bill requires governing boards of junior college districts with a substantial and growing Mexican American population to evaluate the demand for and feasibility of establishing a Mexican American studies program or other course work.

Fiscal Implication Summary

Senate Bill 286 contains several provisions that will have a fiscal impact to the State. They are discussed below, followed by a five-year summary chart.

Eliminating the Joint Advisory Committee will result in a total annual savings of \$1,600 in reduced costs for travel and per diem of eight Board members. In addition, reducing the size of the Board will result in an annual reduction of approximately \$7,200 for Board member travel expenses.

Restructuring the Teach for Texas Conditional Grant program will generate initial savings of \$1.25 million in fiscal year 2004 and \$2.5 million in fiscal year 2005 as grants are discontinued and students have not yet met the service requirements for loan repayment. The restructuring will have a conversion cost of approximately \$138,000 in the first two years.

Allocating Hinson-Hazlewood funds through the Guaranteed Student Loan Corporation's electronic funds transfer process will slightly increase the cost of loan disbursements by a total \$55,000. Most of this cost will be offset by a savings of \$15,200 per year through the discontinuation of the issuance of paper checks.

Collecting and publishing performance data on the Internet will incur initial set-up costs of \$7,000, with maintenance costs of approximately \$1,500 each year thereafter.

Fiscal Year	Savings to the General Revenue Fund	Cost to the General Revenue Fund
2004	\$1,274,000	\$200,000
2005	\$2,524,000	\$194,500
2006	\$1,524,000	\$56,500
2007	\$1,324,000	\$56,500
2008	\$1,024,000	\$56,500

Texas Department of Housing and Community Affairs

Staff Contact: Marcelo Guevara

S.B. 264 Lucio (Callegari, et al)

Summary

The Texas Department of Housing and Community Affairs (the Department) awards funds to acquire, build, and maintain affordable housing; provides community assistance; and regulates the manufactured housing industry. The Legislature created the Department in 1991 by merging the Texas Housing Agency, the Texas Department of Community Affairs, and the Community Development Block Grant Program from the Department of Commerce. The Department had 323 employees and a budget of \$158 million in fiscal year 2002.

Senate Bill 264 continues the Department as recommended by the Sunset Commission. However, the Legislature modified the bill to continue the Department for eight years, instead of the standard 12 years, and made substantial changes to the Department's Low Income Housing Tax Credit Program and other housing finance programs. The list below summarizes the major provisions of S.B. 264, and a more detailed discussion follows.

Sunset Provision

1. Continue the Texas Department of Housing and Community Affairs for Eight Years.

Provisions Added by the Legislature

2. Change the Scoring Criteria for Tax Credit Projects.
3. Require Additional Notice and Posting of Tax Credit Applications.
4. Restrict the Concentrated Development of Tax Credit Projects.
5. Modify the Tax Credit Program Application and Scoring Processes.
6. Require Additional Discussion and Notice of Proposed Housing Projects.
7. Require Housing Developers to Establish Maintenance Reserve Accounts.
8. Allow the Department to Allocate Its Share of Private Activity Bonds.
9. Change the Priority Criteria for Awarding Private Activity Bonds for Multifamily Housing.
10. Allow Restricted Communications Between the Department and Funding Applicants.
11. Subdivide the Regional Allocation of Housing Funds Into Urban/Exurban Areas and Rural Areas.

Sunset Provision ---

1. Continue the Texas Department of Housing and Community Affairs for Eight Years.

Senate Bill 264 continues the Department for eight years, instead of 12 years as recommended by the Sunset Commission. The Department will continue as the state agency responsible for the distribution of Texas' affordable housing funds.

Provisions Added by the Legislature ---

2. Change the Scoring Criteria for Tax Credit Projects.

The bill requires the Department to score and rank tax credit applications using a point system that prioritizes the following criteria in descending order.

- The financial feasibility of the proposed project.
- Quantifiable community participation in the development of the project, evaluated by written statements from neighborhood organizations.
- The income levels of tenants to be served by the project.
- The size and quality of the proposed units.
- Commitments of funding from local governments.
- Local community support for the proposed project, evaluated by written statements from state elected officials.
- The rent levels of the proposed units.
- The cost of the proposed development per square foot.
- The services to be provided to the tenants.

3. Require Additional Notice and Posting of Tax Credit Applications.

The bill requires tax credit applicants to provide the Department with evidence that the applicant has notified schools, neighborhood organizations, local governments, and state elected officials located in or representing the area of a proposed project. In addition, the Department must post submitted tax credit applications and applications approved for underwriting on its Web site. The Department must also send all required information to local community groups, local and state elected officials, interested for-profit organizations, and any newspaper of general or limited circulation serving the area of the proposed project.

4. Restrict the Concentrated Development of Tax Credit Projects.

The bill prohibits the Department from awarding tax credits to a proposed project if it is located within one linear mile of an existing project that has received tax credits during any of the three years preceding the current application round. In addition, the Department may not award tax credits to

more than one project in a single community in the same year unless the projects are more than one linear mile apart. Both restrictions apply only to counties with a population of one million or more.

The bill also prohibits the Department from awarding tax credits to a proposed project in a county or city with more than twice the state average of housing units per capita supported by tax credits or private activity bonds, unless the applicant obtains prior approval from the county or municipal governing body. The Department must also provide incentives to developers that apply to build projects in census tracts with no existing tax credit projects.

5. Modify the Tax Credit Program Application and Scoring Processes.

The bill requires the Department to make the following changes to its tax credit program.

- Evaluate the cost of a proposed project based on the cost of previous developments, adjusted for inflation, in the county, metropolitan area, or uniform state service region where the project is located.
- Raise the maximum amount any tax credit developer may receive in a single application round from \$1.6 million to \$2 million.
- Approve a market analyst hired by a tax credit developer, and develop a methodology for determining the market area to be examined in a market analysis.
- Award preference points to tax credit applications for projects that produce the greatest number of units and serve the lowest income tenants per tax credit.

6. Require Additional Discussion and Notice of Proposed Housing Projects.

Senate Bill 264 requires the Department's governing board to discuss specific topics for each proposed housing project, including the appropriateness of the project's size and shape relative to the housing need of the area, the proximity to other low income housing projects, the availability of adequate public facilities and services, and the anticipated impact to local school districts. The Department must appoint an employee as a public liaison for each proposed project, and must provide written notice of the application filing to Congressional and state elected officials, local governments, schools, and neighborhood organizations located in or representing the area surrounding the proposed project.

7. Require Housing Developers to Establish Maintenance Reserve Accounts.

The bill requires developers receiving multifamily housing funds from the Department to establish a reserve account for each project with 25 or more units to help pay for the project's maintenance costs during its lifetime. The Department must monitor a developer's compliance with rent restrictions and required maintenance, and may assess administrative penalties on developers that fail to properly address maintenance needs.

8. Allow the Department to Allocate Its Share of Private Activity Bonds.

The bill allows the Department to allocate its portion of private activity bonds for multifamily affordable housing and eliminates the Bond Review Board lottery for these bonds. The Department must score, rank, and underwrite bond applications based on income levels, rent levels, community support, and other criteria outlined in the bill. The Bond Review Board will still review and approve the Department's recommended allocations for bond funding.

9. Change the Priority Criteria for Awarding Private Activity Bonds for Multifamily Housing.

The bill redefines the criteria for the funding priorities used by the Bond Review Board to award bond funds allocated to the Department and to local housing finance corporations. To receive first priority funding, developers were previously required to reserve all housing units in a project for tenants at or below 50 percent of the Area Median Family Income (AMFI). The new criteria allows developers to receive first priority by reserving a portion of a project's housing units for tenants at or below either 30 percent or 50 percent of AMFI, or by reserving all units for tenants at or below 60 percent of AMFI in census tracts with higher than average incomes relative to the surrounding county or metropolitan area.

10. Allow Restricted Communications Between the Department and Funding Applicants.

The bill allows funding applicants to communicate with a Department employee regarding their application for housing funds if the communication is restricted to technical or administrative matters, and the communication is made or received on the Department's premises during regular business hours. The Department must attach a record of each communication with the application file for review by the Department's governing board. The bill also allows unlimited communications between Department employees and funding applicants during any Board meeting or other public hearing held by the Department.

11. Subdivide the Regional Allocation of Housing Funds Into Urban/Exurban Areas and Rural Areas.

The bill requires the Department to subdivide its housing funds for each uniform state service region into urban/exurban areas and rural areas of each region, based on the needs and availability of alternate resources in those areas. The bill also requires a joint interim investigation by the House Urban Affairs and Senate Intergovernmental Relations committees to define exurban areas, assess the housing needs of exurban communities, recommend solutions to address exurban community needs, and determine whether subdividing regional funds into urban/exurban areas and rural areas would impact funding to rural areas.

Fiscal Implication Summary

This legislation will have not have a fiscal impact to the State.

Texas State Affordable Housing Corporation

Staff Contact: Marcelo Guevara

S.B. 284 Lucio (Callegari, et al)

Summary

The Legislature created the Texas State Affordable Housing Corporation (the Corporation) as a self-sustaining non-profit entity to facilitate the provision of affordable housing for low income Texans. The Corporation issues mortgage revenue bonds to finance the creation of affordable multifamily housing units by non-profit organizations, and to finance the purchase of single-family homes under the Teacher Home Loan Program. Since April 2001, the Corporation has issued over \$500 million in single-family and multifamily mortgage revenue bonds. The Corporation employs 13 staff; it does not receive any state funding, and is not subject to the legislative appropriations process.

Senate Bill 284 continues the Corporation for six years, with modifications to maximize the public benefits of multifamily housing projects funded through Corporation bonds and eligible for local property tax abatements. The Legislature adopted the Sunset Commission's recommendation, added several statutory modifications to the Teacher's Home Loan Program, and authorized the Corporation to award private activity bonds for multifamily affordable housing projects. The list below summarizes the major provisions of S.B. 284, and a more detailed discussion follows.

Sunset Provision

1. Continue the Corporation for Six Years and Ensure That Abated Tax Dollars Result in Clear Public Benefit.

Provisions Added by the Legislature

2. Change the Name of and Eligibility Requirements for the Teacher Home Loan Program.
3. Authorize the Corporation to Direct the Issuance of Private Activity Bonds for Multifamily Affordable Housing Projects.

Sunset Provision

1. Continue the Corporation for Six Years and Ensure That Abated Tax Dollars Result in Clear Public Benefit.

Senate Bill 284 continues the Corporation for six years, instead of the standard 12 years, to give the Legislature the opportunity to re-evaluate the need for and proper functioning of the Corporation. The bill also replaces the current Board members' unlimited terms with standard six-year, staggered terms.

Senate Bill 284 requires the Corporation to adopt a minimum dollar-for-dollar public benefit requirement for recipients of 501(c)(3) bonds. The bill ensures borrowers will provide at least one dollar of public benefit for every dollar of abated property tax revenue. The specific forms of public benefit, such as rent reductions, or resident services, can be decided on a case-by-case basis. The Corporation must annually review its multifamily bond policies, allowing for adequate public comment on proposed changes, and the Board must formally approve any changes to the policies. The policies must specify reasonable expectations for rent reductions, rehabilitation, and resident service activities for low-income tenants.

Senate Bill 284 also requires the Corporation to coordinate with the Department of Housing and Community Affairs (the Department) on planning and compliance issues. The Corporation must review the needs assessment information compiled for the State Low Income Housing Plan and provide the Department with the Corporation's plans for meeting the most pressing needs identified, including specific proposals to help serve rural and underserved areas of the state. The Department must include the Corporation's existing projects and future plans in the final version of the State Low Income Housing Plan. The Corporation and the Department must also share compliance information and consider an applicant's overall compliance history with both organizations before awarding funds to the applicant.

The Legislature removed language in the original Sunset recommendation which would have required the Corporation to include specific proposals to provide affordable housing through methods that do not duplicate the efforts of the Department or local housing finance organizations.

Provisions Added by the Legislature

2. Change the Name of and Eligibility Requirements for the Teacher Home Loan Program.

The Legislature adopted new provisions to:

- change the name of the program to the Professional Educators Home Loan Program;
- expand program eligibility beyond classroom teachers to include full-time paid teacher's aides, librarians, counselors, and nurses employed by a school district in Texas;
- repeal the requirements for a teacher to have lived in Texas for five years and worked as a teacher for three years prior to applying for a loan; and

- repeal the requirement for the Corporation to give priority to teachers applying from areas of the state with a teacher shortage, as determined by the Commissioner of Education.

3. Authorize the Corporation to Direct the Issuance of Private Activity Bonds for Multifamily Affordable Housing Projects.

The Legislature added provisions to S.B. 284 to allocate 10 percent of the State's private activity bond cap for multifamily affordable housing to the Corporation by reducing the allocations to the Department of Housing and Community Affairs and local housing finance corporations. The Corporation will recommend to the Bond Review Board which projects should be funded with the Corporation's share of private activity bonds. The Bond Review Board will review and approve all Corporation recommendations.

Senate Bill 284 exempts the Corporation from having to use the current award system for bonds issued by the Department and local corporations. The current system requires developers to compete in a statewide lottery, with funding preferences given to projects that serve the lowest income tenants in counties with lower than average median family incomes. In place of this system, the bill requires the Corporation to research the state's strategic housing needs; identify target areas with the greatest need for multifamily housing; solicit proposals for affordable housing development in the target areas; score and rank the proposals using specific criteria for tenant income, proposed rents, and construction costs; and adopt final recommendations for awarding bond funds based on the highest scoring proposals. The bill requires the Board of the Corporation to adopt guidelines and criteria for each step of the award system, and to hold public hearings and consider public comments before making final award recommendations.

Fiscal Implication Summary

This legislation will not have a fiscal impact to the State.

Department of Human Services

Staff Contact: Christian Ninaud

S.B. 285 Nelson (Chisum)

Summary

The Department of Human Services (DHS) administers programs that assist low-income families, the elderly, persons with disabilities, and victims of family violence to lead safer, more independent lives in their communities. The Department conducts eligibility for Temporary Assistance for Needy Families (TANF), Food Stamps, Medicaid, and long-term care services. In addition, DHS regulates long-term care providers to ensure the health and safety of individuals in nursing homes or community-based settings. The Department operates on an annual budget of about \$4.7 billion a year and has 14,543 full-time employees.

Senate Bill 285 contains the Sunset Commission's recommendations to improve TANF client access to supportive and employment services, ensure quick placement of clients in community care services, and improve DHS regional planning by increasing accountability and public input. The legislation does not contain a Sunset date for the agency. Legislation passed in 2001 continued DHS until 2011, and required Sunset to conduct a special purpose review of the Department. The Legislature adopted all of the Sunset Commission's recommendations resulting from the special purpose review, including one as modified. The list below summarizes the major provisions of S.B. 285, and a more detailed discussion follows.

Sunset Provisions

1. Improve Access to Supportive and Employment Services for Families on Temporary Assistance for Needy Families.
2. Quicken the Eligibility Determination Process for Community Care Programs.
3. Require DHS Regional Plans to Include Statewide Goals, Client Outcome Measures, and Public Input.

Sunset Provisions

1. Improve Access to Supportive and Employment Services for Families on Temporary Assistance for Needy Families.

The Legislature modified the Sunset provision to require DHS to identify clients at risk of exhausting cash assistance and to refer these clients, and family members, to appropriate preventive and support services, including faith-based services. In addition, the bill requires the Department and the Texas Workforce Commission to assess and implement best practices to provide more seamless service delivery to TANF clients moving between DHS offices and local workforce centers.

2. Quicken the Eligibility Determination Process for Community Care Programs.

To improve service delivery for the elderly and persons with disabilities, the bill requires DHS to begin the eligibility determination process for community care programs in advance, by identifying potential program openings on a quarterly basis, and starting the eligibility process at least 30 days before those openings are available.

3. Require DHS Regional Plans to Include Statewide Goals, Client Outcome Measures, and Public Input.

Senate Bill 285 requires DHS regional business plans to address all agency statewide goals, set out local strategies to meet those goals, and include client-centered outcome measures. In addition, agency regional administrators must report at least annually to the state office on progress towards those goals and objectives. The bill also requires DHS to seek public input when developing these regional plans.

Fiscal Implication Summary

This legislation will not have a fiscal impact to the State.

Texas Board of Professional Land Surveying

Staff Contact: Meredith Whitten

S.B. 260 Shapleigh (Solomons, et al)

Summary

The Texas Board of Professional Land Surveying (the Board) was created in 1979 by merging the Board of Examiners of Licensed State Land Surveyors and the State Board of Registration for Public Surveyors. The Board has two primary missions: license Registered Professional Land Surveyors and Licensed State Land Surveyors; and enforce the Professional Land Surveying Practices Act, including investigating and resolving complaints. The Board operates with an annual budget of about \$379,000, and has 4.5 staff positions.

Senate Bill 260 continues the Board for 12 years, and contains the Sunset Commission's recommendations to provide the Board with needed accountability, structure, and public input. The legislation clarifies the Board's authority to create exam advisory committees, requires the Board to establish its enforcement process in rule, and authorizes the Board to order restitution as part of an agreement in an informal settlement conference. The Legislature adopted all of the Sunset Commission's recommendations, and added a provision to reduce the size of the Board from 10 to nine members. The list below summarizes the major provisions of S.B. 260, and a more detailed discussion follows.

Sunset Provisions

1. Authorize the Board to Create Exam Advisory Committees.
2. Require the Board to Establish Its Enforcement Process in Rule.
3. Conform Key Elements of the Texas Professional Land Surveying Act to Commonly Applied Licensing Practices.
4. Require the Board to Redact All Identifying Information From Frivolous Complaints.
5. Continue the Texas Board of Professional Land Surveying for 12 Years.

Provision Added by the Legislature

6. Reduce the Size of the Board From 10 to Nine Members.

Sunset Provisions

1. Authorize the Board to Create Exam Advisory Committees.

This provision clarifies the Board's authority to create advisory committees to help the Board in developing its exams. The Board must adopt rules regarding the purpose, size, and membership of these committees.

Senate Bill 260 prohibits Board members from serving as voting members on the advisory committees, but authorizes them to attend committee meetings as liaisons to the full Board. Because of the technical nature of creating exams, S.B. 260 specifies that state law requiring advisory committees to include consumers, or public members, does not apply to these committees. The legislation specifies that the exam advisory committees must comply with the Open Meetings Act, including applicable posting and record-keeping requirements, although the bill clarifies that the committees can meet in closed session to discuss material related to test items, as provided in current state law.

2. Require the Board to Establish Its Enforcement Process in Rule.

Senate Bill 260 requires the Board to adopt an enforcement process specifying that staff or contract investigators conduct investigations; staff may dismiss baseless complaints; staff determine violations and recommend sanctions; and the Board approves final sanctions. The bill also prohibits the Board from considering previously dismissed complaints when deliberating on a current complaint, but authorizes the Board to consider a licensee's previous history of violations when determining sanctions for a current violation.

The legislation specifies that in enforcement cases necessitating Board-member involvement, the Board must appoint a subcommittee, consisting of at least one public member, and that subcommittee members must recuse themselves from voting on violations and sanctions. Also, should Board members act as consultants to staff on a complaint case, those Board members must recuse themselves from disciplinary hearings related to the case.

3. Conform Key Elements of the Texas Professional Land Surveying Act to Commonly Applied Licensing Practices.

Senate Bill 260 includes eight provisions that bring the Board in line with standard licensing agency practices, consisting of the following.

- Eliminates the application notarization requirement for individuals who apply for licensure with the Board.
- Clarifies the Board's authority to adopt rules that follow the general guidelines in Chapter 53 of the Occupations Code for dealing with criminal convictions.
- Eliminates the requirement that complaints submitted to the Board be notarized, requiring the Board to accept complaints that are not notarized, but signed as true and correct.
- Requires the Board to adopt, by rule, guidelines for informal settlement conferences.

- Requires the Board to adopt a written probation guide in rule to ensure that license probations are used consistently.
 - Authorizes the Board to include restitution as part of an agreement in the settlement conference process. The bill limits this authority to ordering a refund not to exceed the amount the consumer paid to the surveyor and specifies that any restitution order may not include an estimation of other damages or harm.
 - Requires the Board to adopt an administrative penalty matrix to appropriately relate penalties to different violations of the Board's Act or rules.
 - Eliminates statutory language that sets and caps fee, and grants the Board the flexibility to set fees at the level necessary to recover program costs as conditions change.
- 4. Require the Board to Redact All Identifying Information From Frivolous Complaints.**

The Legislature modified the Sunset provision to provide that complaints filed with the Board, including those deemed frivolous by the Board, are public information. However, the Board must redact all personal and identifying information about a licensee on frivolous complaints.

5. Continue the Texas Board of Professional Land Surveying for 12 Years.

This provision continues the Board as a separate, stand-alone agency for the standard 12-year period.

Provision Added by the Legislature _____

6. Reduce the Size of the Board From 10 to Nine Members.

The Legislature added this provision to comply with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. Senate Bill 260 removes one of the Registered Professional Land Surveyor positions from the Board, leaving the Board with nine voting members, consisting of two Licensed State Land Surveyors, three Registered Professional Land Surveyors, three public members, and the Land Commissioner, who serves as an ex officio member.

Fiscal Implication Summary _____

This legislation will not have a fiscal impact to the State.

Board of Law Examiners

Staff Contact: Michelle Luera

S.B. 266 Lucio (Gallego/Hartnett)

Summary

The Board of Law Examiners (the Board), created in 1919, is a judicial agency under the dual oversight of the Texas Supreme Court and the Legislature. The Board determines eligibility for admission to practice law. To accomplish its mission, the Board considers the character and fitness of all candidates seeking a Texas law license; determines whether applicants have adequate law study; conducts the bar exam; and determines whether out-of-state attorneys meet the requirements for a license to practice law in Texas. The Board is not subject to legislative appropriations. Instead, the Supreme Court sets fees and approves the Board's annual budget of approximately \$2.4 million. The Board has 19 employees.

Senate Bill 266 continues the Board for 12 years, and contains the Sunset Commission's recommendations to provide a fair admissions process for candidates to the State Bar while balancing the need to protect and inform the public with the need to safeguard the prospective attorney. The legislation stops the disclosure of personal information by closing hearings and records related to the character and fitness of applicants and to testing accommodations, and it requires the Board to provide information about the probationary license status of a new attorney. The Legislature added a provision to allow a person lacking 12 or fewer semester hours for graduation to take the bar examination, and repealed an exemption that allows certain legislators to take the bar examination without a law degree. The list below summarizes the major provisions of S.B. 266, and a more detailed discussion follows.

Sunset Provisions

1. Change the Board's Character and Fitness Process to Balance the Need to Protect the Public With the Need to Safeguard Prospective Attorneys.
2. Lengthen the Board Members' Terms to Six Years and Place Them on a Staggered Schedule.
3. Clarify the Supreme Court's Authority to Establish Later Deadlines for Filing Applications to the Bar Exam.
4. Continue the Board of Law Examiners for 12 Years.

Provisions Added by the Legislature

5. Eliminate an Exemption that Currently Allows Certain Legislators to Take the Bar Exam Without a Law Degree.
6. Allow a Person Within 12 Hours of Graduation to Be Eligible to Take the Bar Exam.

7. Allow the Board to Release Bar Examination Results to Law Schools Conducting Research on Individuals' Performance.
8. Require the Board to Report on Applicants Who Fail the Bar Examination.

Sunset Provisions

1. Change the Board's Character and Fitness Process to Balance the Need to Protect the Public With the Need to Safeguard Prospective Attorneys.

Senate Bill 266 requires Board deliberations, hearings, and determinations relating to the moral character and fitness of applicants and requests for testing accommodations for the bar exam to be closed to the public, and clarifies that related records are confidential. Individuals may have their character and fitness hearings open to designated persons if they submit a written request to the agency before the hearing.

Senate Bill 266 requires the Board, in coordination with the State Bar, to inform a member of the public, upon request, about the probationary status of a newly-licensed attorney. Any information that forms the basis for the issuance of the probationary license remains confidential.

The bill repeals language related to the role of district committees in character and fitness investigations. The Legislation also eliminates the current statutory definition of chemical dependency, requiring the Board to develop a new definition subject to adoption in rule by the Texas Supreme Court.

2. Lengthen the Board Members' Terms to Six Years and Place Them on a Staggered Schedule.

Senate Bill 266 lengthens the Board members' terms from two to six years and places the Board members' terms on a staggered schedule, with one-third of the Board's membership to be appointed every two years.

3. Clarify the Supreme Court's Authority to Establish Later Deadlines for Filing Applications to the Bar Exam.

The bill allows a person to apply to take the bar exam 60 days later than the standard filing deadline upon showing of good cause or to prevent hardship, and upon paying late fees. Senate Bill 266 also provides for an applicant who failed the immediately preceding bar exam to take the next bar exam without regard to filing deadlines and late fees.

4. Continue the Board of Law Examiners for 12 Years.

This provision continues the Board as a separate, stand-alone agency for the standard 12-year period.

Provisions Added by the Legislature

5. Eliminate an Exemption that Currently Allows Certain Legislators to Take the Bar Exam Without a Law Degree.

The Legislature repealed language that allows certain members of the Legislature who served before 1975 to take the bar examination, substituting their legislative service and education for the standard study and training requirements for applicants.

6. Allow a Person Within 12 Hours of Graduation to Be Eligible to Take the Bar Exam.

The Legislature added a provision allowing a person within 12 semester hours of graduation from an approved law school to take the bar examination and be licensed to practice under certain conditions. This provision expires on September 1, 2004.

7. Allow the Board to Release Bar Examination Results to Law Schools Conducting Research on Individuals' Performance.

The Legislature adopted a provision allowing the Board to release bar examination results and statistics to law schools conducting research on the performance of their students or graduates in passing the bar examination. The bill provides that information released to a law school is confidential and allows applicants to request that the Board not release their identity to a law school that requests information.

8. Require the Board to Report on Applicants Who Fail the Bar Examination.

The Legislature added a provision requiring the Board to compile a report on the number of applicants who fail the July 2004 bar examination based on gender, ethnicity, and race. The provision also requires the Board to recommend ways to reduce the number of applicants who fail the bar examination. The Board must submit a report to the Legislature by December 31, 2004.

Removed Provision _____

1. Deposit the Boards' Funds in the State Treasury Subject to the Legislative Appropriations Process.

The Legislature did not adopt the Sunset recommendation requiring the Board to deposit its funds in the State Treasury subject to the legislative appropriations process with oversight of expenditures by the Comptroller of Public Accounts.

Fiscal Implication Summary _____

This legislation will not have a fiscal impact to the State.

Licensing Agency Pilot Project

Staff Contact: Melissa Aerne

S.B. 1382 Armbrister (Heflin)

Summary

In 1999, the Legislature established the Self-Directed, Semi-Independent Licensing Agency Pilot Project Act to test whether certain agencies could effectively operate outside of the legislative appropriations process. The Texas State Board of Public Accountancy, Texas Board of Architectural Examiners, and Texas Board of Professional Engineers were selected to participate in the Pilot Project. Under the terms of the Act, project agencies are not required to participate in the legislative budgeting process or adhere to the spending limits of the General Appropriations Act that affect most other state agencies. The semi-independent agency status is intended to allow the agencies greater budget flexibility to raise and spend their own funds.

The Sunset Commission recommended the discontinuation of the Pilot Project. Under the terms of the Pilot Project Act, the authority for the three project agencies to raise and spend funds outside of the legislative appropriations process would automatically expire at the end of the current biennium. Therefore, no legislation was needed to abolish the Pilot Project.

Independent of the Sunset process, the Legislature adopted Senate Bill 1382 that continues the Self-Directed, Semi-Independent Licensing Agency Pilot Project Act for six years and contains several provisions that strengthen the accountability of the project agencies. Senate Bill 1382 adds the following provisions to the Act.

- Authorizes the project agencies to decide whether to implement acts of the 78th Legislature related to the agencies that are inconsistent with being self-directed and semi-independent.
- Increases the amount that the Texas State Board of Public Accountancy and the Texas Board of Professional Engineers must annually remit to the General Revenue Fund, and decreases the amount that the Board of Architectural Examiners must remit.
- Authorizes each project agency to retain revenue generated through enforcement actions each fiscal year, in an amount equal to 20 percent of the total amount expended by an agency during the previous fiscal year, not to exceed \$1 million.
- Requires each project agency to deposit to General Revenue 50 percent of the unexpended balance of the retained enforcement revenue at the end of each fiscal year.
- Prohibits project agencies from accepting gifts, grants, or donations from a party to an enforcement action or to pursue a specific investigation or enforcement action, and requires each project agency to report all gifts, grants, and donations to the Legislature in statutorily required reports.

Fiscal Implication Summary

This legislation will have a fiscal impact to the State. Increasing the amounts the Texas State Board of Public Accountancy and Texas State Board of Professional Engineers must remit to the State will result in an annual gain of \$527,244 to general revenue. Reducing the amount remitted by the Texas Board of Architectural Examiners will result in an annual loss of \$190,000, producing a net annual gain of \$337,244. Additionally, the State will relieve a portion of revenues from enforcement actions; however these gains could not be estimated.

Fiscal Year	Gain to the General Revenue Fund	Cost to the General Revenue Fund
2004	\$527,244	\$190,000
2005	\$527,244	\$190,000
2006	\$527,244	\$190,000
2007	\$527,244	\$190,000
2008	\$527,244	\$190,000

Texas Department of Licensing and Regulation

Staff Contact: Chloe Lieberknecht

S.B. 279 Jackson (Solomons, et al)

Summary

The Texas Department of Licensing and Regulation (TDLR) traces its history to 1909 when the Legislature created the Bureau of Labor Statistics. Over time the agency's purpose broadened to include a number of labor-related regulatory functions and, in 1989, Sunset legislation established TDLR as an umbrella licensing agency for non-health related professions and renamed it to clarify its role. The Department serves as an umbrella licensing agency for 20 occupational licensing and regulatory programs, administering exams and licenses, conducting inspections, and taking enforcement actions against non-compliant licensees. The Department operates with an annual appropriation of \$6.9 million and has 145 employees. Currently, TDLR administers the following programs.

- Air Conditioning Contractors
- Architectural Barriers
- Auctioneers
- Boilers
- Career Counseling Services
- Combative Sports
- Court Interpreters
- Elevators, Escalators, and Related Equipment
- Industrialized Housing and Buildings
- Personnel Employment Services
- Property Tax Consultants
- Service Contract Providers
- Staff Leasing Services
- Talent Agencies
- Temporary Common Worker Employers
- Transportation Service Providers
- Water Well Drillers
- Water Well Pump Installers
- Weather Modification
- Vehicle Protection Product Warrantors

Senate Bill 279 continues the Department for 12 years, and contains the Sunset Commission's recommendations to strengthen TDLR's oversight powers, conform program statutes to provide consistency, abolish the regulation of transportation service providers, and create a toll-free information line administered by TDLR that allows consumers to access information about any state-regulated occupation. The Legislature did not adopt the Sunset recommendations to transfer certain regulatory programs to TDLR from the Texas Commission on Environmental Quality (TCEQ). It did, however, add several other statutory modifications to S.B. 279, including increasing the Commission size from six to seven members, requiring valet parking services to establish financial responsibility, setting requirements relating to the use of loss damage waivers under rental purchase agreements, and creating the registration of elevator contractors. The following list summarizes the major provisions of S.B. 279, and a more detailed discussion follows.

Sunset Provisions

1. Give TDLR's Commission Rulemaking Authority and Advisory Committee Appointment Authority Common to Other Agency Policy Bodies.
2. Adjust the Size of the Commission on Licensing and Regulation.
3. Conform Key Elements of the Department's Programs to Commonly Applied Occupational Licensing Practices.
4. Require Elevator Certificates of Compliance to Be Posted in Publicly Visible Areas, and Provide for Elevator Contractor Registration.
5. Coordinate Oversight of Abandoned and Unplugged Water Wells Among TDLR, Local Groundwater Conservation Districts, and TCEQ.
6. Abolish the Registration of Transportation Service Providers.
7. Require TDLR to Act as an Information Resource for Consumers on All State Licensing Agencies.
8. Continue the Texas Department of Licensing and Regulation for 12 Years.

Provisions Added by the Legislature

9. Require the Department to Better Monitor Complaints in the Architectural Barriers Program.
10. Remove Inconsistent Enforcement Time Lines From the Career Counseling Services Program.
11. Provide a Mechanism for TDLR to Reinspect Industrialized Housing That Has Moved.
12. Authorize Municipalities to Pass Certain Regulations Relating to Industrialized Housing and Building.
13. Require TDLR to Approve All Loss Damage Waiver Contracts Under Rental Purchase Agreements.
14. Require Persons Regulated by One or More Licensing Authorities to File a Single Change of Address Online.
15. Require Valet Parking Services to Maintain Financial Responsibility.
16. Transfer the Authority to Administer Grants in the Weather Modification Program From the Department of Agriculture to TDLR.
17. Expand Requirements in the Combative Sports Program Statute.

Sunset Provisions

1. Give TDLR's Commission Rulemaking Authority and Advisory Committee Appointment Authority Common to Other Agency Policy Bodies.

Senate Bill 279 gives TDLR's Commission rulemaking authority for the programs it oversees. This authority is currently vested with the Executive Director. This change conforms the Commission's powers for rulemaking with those of other boards and commissions and also affords the public the opportunity to address the Commission during the rulemaking process.

The legislation also clarifies that advisory committees exist to assist the Commission in creating rules and regulating the professions and industries under its jurisdiction. The presiding officer of the Commission will appoint members of all advisory committees, with the Commission's approval. The presiding officer will also select the chairs of each advisory committee to serve two-year terms, except for the boiler program, in which the chief boiler inspector will remain the presiding officer. This provision does not affect the Industrialized Building Code Committee as its members will continue to be appointed by the Governor.

2. Adjust the Size of the Commission on Licensing and Regulation.

The Legislature increased the size of the Commission from six to seven members instead of reducing it to five as recommended by the Sunset Commission. This change brings the Commission into compliance with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. The Commission will continue to be composed of all public members.

3. Conform Key Elements of the Department's Programs to Commonly Applied Occupational Licensing Practices.

Senate Bill 279 includes the following provisions that bring the Department's programs in line with standard licensing agency practices and allow the Department to administer its programs more consistently.

- Requires the Department to follow the general guidelines set up in Chapter 53, Occupations Code, for dealing with criminal convictions of licensees.
- Eliminates the involvement of the Water Well Drillers Advisory Council in making recommendations on specific licensure and enforcement actions in the water well drillers and water well pump installers programs.
- Eliminates the requirement that complaints be notarized in the auctioneers, career counseling services, and personnel employment services program statutes, and removes the \$50 complaint filing fee required to make a claim against the Auctioneers Education and Recovery Fund.
- Requires the Department to document its complaint process from submission of the complaint to its final disposition, to be published in the *Texas Register*.
- Repeals non-standard administrative penalty amounts in the service contract providers, staff leasing services, vehicle protection product warrantors, water well drillers, and water well pump installers program statutes and replaces them with the cap of \$5,000 per day per violation used for all other Department programs.

- Requires the Department to develop administrative penalty amounts that relate appropriately to different violations for each program.
- Eliminates hearing and decision deadlines in the career counseling services, personnel employment services, and water well drillers program statutes that vary from the Administrative Procedure Act.
- Eliminates fees and fee caps that are statutorily set in the auctioneers, combative sports, elevators, staff leasing services, talent agencies, vehicle protection product warrantors, and weather modification programs and gives TDLR the flexibility to set fees at the level necessary to recover program costs.
- Standardizes all agency renewal periods to one year for property tax consultants, service contract providers, and staff leasing services.
- Requires the Department to adopt rules regarding annual registration renewals for service contract providers.
- Requires the Department to establish an exam fee refund policy and repeals language in the property tax consultants, water well drillers, and water well pump installers program statutes that conflicts with this standard language.

4. Require Elevator Certificates of Compliance to Be Posted in Publicly Visible Areas, and Provide for Elevator Contractor Registration.

This provision repeals the prohibition against TDLR requiring building owners to post certificates of compliance in or near elevators, or in other public places within the building. Instead, certificates of compliance will be required to be posted in a publicly accessible area within the building. The certificate will include information showing the date of the last inspection and the due date of the next one, and contact information for the consumer to report violations to TDLR. The bill also provides for annual elevator inspections.

The Legislature modified this provision to also include the creation of a program to require elevator contractors to be registered before they install, repair, or maintain elevators and related equipment. In addition, these contractors must provide information to TDLR regarding the locations at which they have worked as a means of identifying elevators in the state. Additionally, the bill changes enforcement provisions making certain elevator violations subject to administrative penalties and providing for emergency orders under certain circumstances.

5. Coordinate Oversight of Abandoned and Unplugged Water Wells Among TDLR, Local Groundwater Conservation Districts, and TCEQ.

This bill transfers the responsibility for taking enforcement actions against individuals with unplugged abandoned water wells from TDLR to local Groundwater Conservation Districts where they exist. The Department will maintain enforcement responsibility against landowners with unplugged water wells in areas of the state with no local Conservation District. The Department will also maintain responsibility for creating well plugging standards. Additionally, TDLR, local Groundwater Conservation Districts, and TCEQ will be required to enter into memoranda of understanding to better use TCEQ's field offices and to refer cases of groundwater contamination stemming from abandoned and unplugged water wells.

6. Abolish the Registration of Transportation Service Providers.

Senate Bill 279 repeals requirements that transportation service providers register with TDLR, but does not affect the statute requiring companies to keep transaction records, so as to preserve evidence that may be useful to law enforcement agencies in the future. The provision permitting TDLR to audit these records will transfer to the Department of Public Safety, as the State's primary law enforcement agency.

7. Require TDLR to Act as an Information Resource for Consumers on All State Licensing Agencies.

This provision requires TDLR to create a toll-free information number to allow consumers to call one number to find out information about any state-issued license. The Legislature modified this provision to clarify that the toll-free information licensing hotline is strictly a connection tool for consumers and to remove the requirement for TDLR to maintain a database on licensing entities and licensing information. The Legislature also removed the fee that TDLR was to charge other licensing agencies to cover the costs of providing this service. Senate Bill 279 also requires the Department, on a cost-recovery basis, to identify licensing agencies that do not use *TexasOnline* and to assist those agencies in making the conversion to *TexasOnline*.

8. Continue the Texas Department of Licensing and Regulation for 12 Years.

Senate Bill 279 continues the agency for the standard 12-year period, until 2015.

Provisions Added by the Legislature

9. Require the Department to Better Monitor Complaints in the Architectural Barriers Program.

The Legislature added a provision requiring the Department to provide better monitoring of all architectural barrier complaints that allege non-compliance with Texas Accessibility Standards. The provision requires the Department to monitor the complaints until the building comes into compliance with the law, unless the building is exempt from compliance or otherwise unable to come into compliance.

10. Remove Inconsistent Enforcement Time Lines From the Career Counseling Services Program.

Senate Bill 279 removes the enforcement action time lines in the career counseling services statute that are inconsistent with other programs regulated by TDLR. The provision also removes the requirement that a service provide its client with a copy of a service contract at the first interview and the requirement for two interviews before entering into a contract.

11. Provide a Mechanism for TDLR to Reinspect Industrialized Housing That Has Moved.

The bill allows industrialized housing to be movable, and provides a mechanism for reinspection by the Department. The bill also removes the requirement that all modular components be inspected at the manufacturing plant or facility.

12. Authorize Municipalities to Pass Certain Regulations Relating to Industrialized Housing and Building.

The Legislature added a provision that gives municipalities the authority to adopt industrialized housing regulations. The regulations may require industrialized housing to have equal or greater value as the median taxable value for single family homes within 500 feet, comply with municipal aesthetic standards, have certain exterior qualities comparable to single family homes in the area, and be secured to a permanent foundation.

13. Require TDLR to Approve All Loss Damage Waiver Contracts Under Rental Purchase Agreements.

The Legislature adopted a provision that sets forth requirements relating to the use of loss damage waivers under rental purchase agreements, including prohibiting a merchant from selling a loss damage waiver unless the consumer agrees to the waiver in writing. The provision requires TDLR to approve all loss damage waiver contracts and gives the Department rulemaking and fee authority, as well as investigative and administrative enforcement authority over loss damage waiver contracts.

14. Require Persons Regulated by One or More Licensing Authorities to File a Single Change of Address Online.

The Legislature added a provision to require persons regulated by one or more licensing authorities to file a single change of address online with the Department of Information Resources (DIR), through *TexasOnline*. The legislation requires DIR to provide the new address to each appropriate licensing agency and requires licensing authorities to share information electronically with each other regarding license holders.

15. Require Valet Parking Services to Maintain Financial Responsibility.

Senate Bill 279 requires valet parking services to maintain financial responsibility and creates an offense for services that do not comply. The provision authorizes TDLR and the Department of Insurance to coordinate to assure consistency with the standard of proof required. The bill also provides that this provision will only take effect after TDLR conducts a study and determines that these requirements will not increase the average consumer cost for valet parking services by more than 25 percent.

16. Transfer the Authority to Administer Grants in the Weather Modification Program From the Department of Agriculture to TDLR.

The bill transfers from the Department of Agriculture (TDA) to TDLR the authority to administer grants to political subdivisions in the weather modification program, consolidating the program at one agency. The provision also requires TDA and TDLR to adopt a memorandum of understanding that provides for the transfer of all files, records, equipment, or property necessary to administer the grant program.

17. Expand Requirements in the Combative Sports Program Statute.

The Legislature adopted changes to the combative sports statute requiring TDLR to establish practice requirements for ringside physicians and health and safety requirements for contestants; authorizing the Commission to establish a medical advisory committee to advise on health issues affecting boxing event contestants; and establishing requirements for promoters. Senate Bill 279 also allows the price charged for the sale or lease of broadcasting or movie rights to boxing events be added to the amount of total ticket sales in determining the amount of sales on which the gross receipts tax is calculated. The legislation also makes changes to the structure of elimination tournaments and expands the Department's enforcement authority.

Removed Provisions

1. Transfer Certain Occupational Licensing Programs From the Texas Commission on Environmental Quality to TDLR.

The Legislature did not adopt the Sunset recommendation to transfer the responsibility for the licensure, regulation, and enforcement activities of five environmental occupational licensing programs, including backflow prevention assembly testers, customer service inspectors, water treatment specialists, landscape irrigators, and underground storage tank operators, from TCEQ to TDLR.

2. Require TDLR to License and Regulate Mobile Amusement Park Rides and Require Annual Inspections.

The Legislature did not adopt the Sunset recommendation to transfer the insurance and inspection requirements for mobile amusement park rides from the Department of Insurance to TDLR.

Fiscal Implication Summary

Senate Bill 279 contains several provisions that will have a fiscal impact. Overall, the provisions will result in a fiscal impact to the Department to implement new programs, but the Department will adjust its fees to cover the costs. The legislation will have a net positive impact to the State of \$12,300 per year in increased gross receipts tax collections. The provisions with a fiscal impact are discussed below, followed by a five-year summary chart.

Increasing the number of Commission members from six to seven will result in an increase in travel costs of \$900. Transferring all rulemaking authority to the Commission will require the Commission to meet approximately two additional times per year to ensure timely adoption of rules, increasing travel and per diem expenses by about \$1,800 per year. These costs will be absorbed by the agency within current resources.

Requiring the Department to create a central toll-free licensing hotline will require one additional administrative technician with an annual salary of \$29,571 and yearly costs of \$10,800 for related expenses. The Department will also have a \$5,900 start-up cost for equipment in fiscal year 2005. However, the Department will reallocate its current resources to absorb any costs associated with this project.

Abolishing the regulation of transportation service providers will result in a savings of approximately \$8,000 in funds used for these oversight activities. However, no net savings will accrue to the State because the licensing revenue funding these activities would no longer be collected.

Requiring TDLR to register elevator contractors will require an additional 1.5 staff positions, costing TDLR \$63,188 for the first year and \$54,338 per year thereafter. These costs will be offset by licensing and registration fees charged.

Transferring the authority to administer grants in the weather modification program from TDA to TDLR requires the two agencies to adopt a memorandum of understanding to provide for the transfer of funds currently appropriated to TDA, which is approximately \$2.5 million annually. Additionally, the transfer will have a \$5,900 one-time, start-up cost for the program, to be absorbed by fees collected.

The legislation requires TDLR to register and investigate merchants providing loss damage waivers, requiring an additional three staff positions and \$118,411 per year, with costs offset by fees charged in the program.

Senate Bill 279 requires TDLR to register ringside physicians in the combative sports program, resulting in an increase of \$1,050 per year in additional registration fees. The bill will also increase the amount of gross receipts tax collected from combative sports activities each year by \$11,250, which is deposited in the General Revenue fund.

Fiscal Year	Gain to the General Revenue Fund	Cost to the General Revenue Fund	Change in Staff Positions From 2003
2004	\$242,870	\$230,570	+5.5
2005	\$234,020	\$221,720	+5.5
2006	\$228,120	\$215,820	+5.5
2007	\$228,120	\$215,820	+5.5
2008	\$228,120	\$215,820	+5.5

Texas Lottery Commission

Staff Contact: Karen Latta

S.B. 270 Jackson (Wilson)

Summary

In 1991, Texas voters approved a constitutional amendment authorizing a state lottery. In 1993, the Legislature created the Texas Lottery Commission (the Commission) to assume the administration of the lottery and also transferred the administration of the Bingo Enabling Act to the new agency. Today, the Commission administers and markets the state lottery and regulates the charitable bingo industry through licensing and enforcement. The Commission operates with an annual budget of \$196.7 million, all of which comes from lottery proceeds and bingo licensing fees. The Commission has 335 staff positions. In FY 2002, the lottery generated about \$2.97 billion in revenue, of which \$859.3 million was transferred to the Foundation School Fund.

The Sunset Commission's recommendations on the Texas Lottery Commission included continuing the agency for 12 years, increasing the size of the Commission from three to five members, and requiring more Commission involvement in major procurement decisions. The Sunset Commission also recommended several changes to the State's system of bingo regulation. These recommendations were incorporated into Senate Bill 270.

The bill adopted by the Senate reflected most of the Sunset Commission's recommendations, but also included several new provisions regarding bingo regulation. When the bill reached the House of Representatives, the House committee removed many of the Senate's bingo provisions and added provisions to more closely regulate bingo and illegal gambling machines. The House committee also added a provision to allow the Lottery Commission to join a multijurisdictional lottery game. The full House adopted this version of the bill and added several amendments. The Senate refused to concur with the changes made by the House. While both houses appointed a conference committee to address differences in the bill, the committee was unable to reach an agreement before the legislative session ended. Therefore, S.B. 270 did not pass.

While none of the Sunset provisions from S.B. 270 were added to other legislation, both chambers passed another bill, House Bill 3459, with a provision allowing a multijurisdictional lottery game. The Legislature also passed House Bill 2519 that contained the bingo regulation provisions that had been added to S.B. 270 in the Senate.

The Lottery Commission was continued in separate legislation. House Bill 2455 continues the Commission until 2005 and requires the Sunset review to focus on the appropriateness of the Sunset Commission's recommendations to the 78th Legislature. Continuing the Commission for two years will allow the Sunset Commission to re-examine lottery and bingo regulation issues and make recommendations to the 79th Legislature.

Texas State Board of Plumbing Examiners

Staff Contact: Emilie Leroux

S.B. 282 Jackson (Dunnam/Bailey)

Summary

The Texas State Board of Plumbing Examiners was created in 1947 to protect the public's health and safety by ensuring that plumbing systems are installed properly by qualified individuals. To accomplish its mission, the Board licenses and registers plumbing professionals and enforces the Plumbing License Law. The Board employs 25 staff positions and operates on a \$1.5 million annual budget. Senate Bill 282 contains the Sunset Commission's recommendations to continue the Board for an additional 12 years, to address the training needs of prospective plumbers, and to improve the Board's services through better cooperation with other state agencies and by conforming its regulatory activities with commonly applied licensing practices. The bill also contains new provisions that change the Board's licensing exemptions and ease the supervision of apprentices working on new constructions in unincorporated areas. The list below summarizes the major provisions of S.B. 282, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Board for 12 Years and Increase Collaboration Between the Board and the Texas Department of Licensing and Regulation.
2. Specify That the Board's Committees Be Composed of Board Members Only.
3. Enable the Board to Provide for the Training of Apprentices and Address the Need for Licensed Plumbers.
4. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.
5. Direct the Board to Develop a Review Course to Prepare Applicants for the Board's Licensing Exams.

Provisions Added by the Legislature

6. Relax the Supervision Requirement of Apprentices Installing Plumbing on New Constructions Located in Unincorporated Areas of the State.
7. Modify the Licensing Requirements to Install and Repair Plumbing Systems in Texas.

Sunset Provisions

1. Continue the Board for 12 Years and Increase Collaboration Between the Board and the Texas Department of Licensing and Regulation.

Senate Bill 282 continues the Texas State Board of Plumbing Examiners for the standard 12-year period. In addition, the bill establishes a formal mechanism for the Board and the Texas Department of Licensing and Regulation (TDLR) to work more closely to improve the regulation of plumbing in Texas. This provision requires the Board and TDLR to enter into an interagency agreement under which the two agencies will share resources, enhance coordination, and improve services, when needed. Senate Bill 282 also requires the Board and TDLR to enter into a reciprocal agreement under which enforcement officers from both agencies will, in the performance of their respective duties, be authorized to check licenses held by occupations regulated by the partner agency, and report noncompliance to that agency. The Board and TDLR enforcement staff are also required to conduct joint investigations as circumstances dictate.

2. Specify That the Board's Committees Be Composed of Board Members Only.

Senate Bill 282 requires that the Board's committees be composed solely of Board members, as appointed by the Chair. This change does not apply to the Board's current enforcement committee, which reviews complaints and applicants with criminal convictions.

3. Enable the Board to Provide for the Training of Apprentices and Address the Need for Licensed Plumbers.

Senate Bill 282 provides the Board with the same statutory authority to set training requirements for apprentices that the Board has for all other registrants and licensees. The bill also requires the Board and the Texas Workforce Commission to collaborate to raise awareness of the plumbing profession to the public, and of resources available to employers to recruit plumbers, through local workforce boards.

4. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

Senate Bill 282 includes the following seven provisions that bring the Board in line with standard licensing agency practices.

- Clarifies that the Board must address felony and misdemeanor convictions in the standard manner defined in the Occupations Code, and authorizes staff to review criminal convictions based on guidelines developed by the Board.
- Requires the Board to adopt, by rule, a separate code of conduct for licensed plumbing inspectors.
- Requires the Board to investigate and address complaints according to risk.
- Requires the Board to track complaints according to sources, types, and geographical areas.
- Authorizes staff to settle complaints and review applicants with a criminal history, subject to the Board's final approval.

- Provides the agency with a full range of sanctions, including administrative penalties, cease and desist orders, and restitution.
- Requires the Board to establish a policy for refunding examination fees under certain circumstances.

5. Direct the Board to Develop a Review Course to Prepare Applicants for the Board's Licensing Exams.

Senate Bill 282 requires the Board to develop a standard review course, in English and Spanish, for each of the Board's licensing exams. The Board is not required to teach the course itself, but may use third-party providers to help plumbers prepare for exams. This provision authorizes the Board to charge a fee for dispensing the course, and for allowing third-party providers to use the review course.

Provisions Added by the Legislature

6. Relax The Supervision Requirement of Apprentices Installing Plumbing on New Constructions Located in Unincorporated Areas of the State.

The Legislature modified the requirement for a licensed plumber to supervise plumbing work on new residential constructions built in unincorporated areas of the state. The bill stipulates that the licensed plumber has management responsibility and must review and inspect the work of apprentices, but is not required to have continuous or uninterrupted oversight of the job site.

7. Modify the Licensing Requirements to Install and Repair Plumbing Systems in Texas.

Senate Bill 282 requires persons to be licensed to perform plumbing work on all new construction located in the state. However, a person does not have to be licensed to perform plumbing repair work in municipalities of less than 5,000 inhabitants, or in areas outside a municipality that are connected to a public water supply of a jurisdiction that does not require the person to be licensed.

Fiscal Implication Summary

Two provisions will have a fiscal impact to the State resulting in an overall net gain to General Revenue of \$82,500 in fiscal year 2004, and \$85,500 each year thereafter. The provisions are discussed below, followed by a five-year summary chart.

Requiring the Plumbing Board's committees to be composed solely of Board members will have an annual fiscal cost of \$1,500, associated with additional travel for Board members needed to serve in place of staff on Board committees.

Authorizing the Board to levy administrative fines will result in an annual gain to General Revenue of approximately \$87,000. In addition, authorizing staff to review the criminal histories of applicants with convictions and to settle complaints, subject to the Board's final approval, will save the State approximately \$1,500 annually in travel costs for Board members. The printing of consumer-oriented brochures may cost the State approximately \$1,500 annually. The initial set up cost of an online system for consumers to check disciplinary orders against licensees may cost approximately \$3,000.

Fiscal Year	Gain to the General Revenue Fund	Savings to the General Revenue Fund	Cost to the General Revenue Fund
2004	\$87,000	\$1,500	\$6,000
2005	\$87,000	\$1,500	\$3,000
2006	\$87,000	\$1,500	\$3,000
2007	\$87,000	\$1,500	\$3,000
2008	\$87,000	\$1,500	\$3,000

Texas Council on Purchasing from People with Disabilities

Staff Contact: Vanessa González

S.B. 261 Shapleigh (Dunnam)

Summary

The primary function of the Texas Council on Purchasing from People with Disabilities (the Council) is to oversee the State Use Program, which provides for the employment of persons with disabilities in the production of products and services set aside for state procurement. Administered by a central nonprofit agency under contract with the Council, the Program provides for the employment of more than 7,000 Texans with disabilities at 150 community rehabilitation programs across the state. In 2002, these individuals earned almost \$24 million in wages. The Legislature has authorized the Council to spend approximately \$225,000 per biennium. Funding comes from a portion of the sales revenue generated by the State Use Program. The Council employs one full-time employee.

Senate Bill 261 continues the Council for 12 years and clarifies the Council's authority to oversee and promote the State Use Program. The Legislature adopted all of the Sunset Commission's recommendations. The list below summarizes the major provisions of S.B. 261, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Texas Council on Purchasing From People With Disabilities for 12 Years.
2. Require the Council and the Texas Building and Procurement Commission to Promote the State Use Program and Enhance Agency Compliance.
3. Increase State Use Program Accountability Through Greater Oversight of Program Components.

Sunset Provisions

1. Continue the Texas Council on Purchasing From People With Disabilities for 12 Years.

The Legislature adopted this provision to continue the Council for the standard 12-year period, until 2015.

2. Require the Council and the Texas Building and Procurement Commission to Promote the State Use Program and Enhance Agency Compliance.

To increase the use of the State Use Program by state agencies, the bill requires the Council and the Texas Building and Procurement Commission to increase both the promotion and monitoring of Program purchases. In addition, this provision requires the State Auditor's Office to evaluate and report on agency compliance with state use laws as part of its Historically Underutilized Businesses compliance audits.

3. Increase State Use Program Accountability Through Greater Oversight of Program Components.

This provision of the bill includes procedural guidelines for the Council to annually review the central nonprofit agency's management fee. The Council must also adopt a formal procedure for certifying community rehabilitation programs, including establishing a certification committee of the Council. While the central nonprofit agency can assist in the administration of the certification procedure, the bill prohibits the Council from delegating authority to certify a community rehabilitation program. Finally, the legislation authorizes the Council or a central nonprofit agency under the Council's direction to inspect a community rehabilitation program for compliance with the certification criteria.

Fiscal Implication Summary

This legislation will not have a fiscal impact to the State. All expenses incurred by the Council or the Texas Building and Procurement Commission in support of the Council are paid by the central nonprofit agency which is funded by a percentage of Program sales.

Riding Stables Chapter

Staff Contact: Erica Wissolik

S.B. 271 Jackson (Dunnam)

Summary

The Legislature created the Riding Stables Chapter (the Chapter) in 1989 to promote humane treatment and conditions for horses the public uses in recreational riding and carriage stables. Initially, the Texas Department of Health administered the Chapter, but in 2001, the Legislature transferred the program to the Texas Animal Health Commission (TAHC). No staff positions were allotted for the program, however the agency was authorized to retain approximately \$30,000 per year in stable licensing fees. The program's major functions include:

- registration of all stables renting one or more equines for riding or carriage purposes;
- biennial inspections of the condition of facilities and the health of equines; and
- denial, revocation, or suspension of certificates of registration if TAHC finds violations of care and treatment standards.

Senate Bill 271 contains the Sunset Commission's recommendation to abolish the Riding Stables Chapter, as no significant problems had been identified or addressed in 13 years of regulatory oversight. The 78th Legislature adopted this recommendation without modifications. The major provision of S.B. 271 is listed below, and a more detailed discussion follows.

Sunset Provision

1. Repeal the Riding Stables Chapter, Effective September 1, 2003.

Sunset Provision

1. Repeal the Riding Stables Chapter, Effective September 1, 2003.

This provision will end the state regulation of riding stables in Texas on September 1, 2003. The Texas Animal Health Commission will continue to protect and promote health among Texas' animal populations but will no longer specifically oversee the care and treatment of recreational horses housed in riding stables.

Fiscal Implication Summary

This legislation will result in a savings of approximately \$5,000 per year. This amount is based upon the difference between the agency's actual expenditures for the program and the amount collected from stable licensing fees.

Fiscal Year	Savings to the General Revenue Fund
2004	\$5,000
2005	\$5,000
2006	\$5,000
2007	\$5,000
2008	\$5,000

Board of Tax Professional Examiners

Staff Contact: Michelle Luera

S.B. 276 Lucio (Flores, et al)

Summary

The Board of Tax Professional Examiners (the Board) was created in 1983 to regulate tax professionals in Texas to ensure that those who appraise real property and assess and collect property taxes are knowledgeable, competent, and ethical. To accomplish its mission, the Board registers tax appraisers, assessor-collectors, and collectors; oversees an education program; develops and administers certification exams; and enforces the Property Taxation Professional Certification Act and Board rules by investigating complaints and taking disciplinary action when necessary. The Board operates with an annual budget of about \$156,000 and has a staff of four.

Senate Bill 276 continues the Board for 12 years, and contains the Sunset Commission's recommendations to strengthen the Board's administrative link with the Comptroller's Office and ensure greater responsiveness to the public in its decisionmaking. The legislation expands the scope of the Board's current interagency contract with the Comptroller for administrative functions to take advantage of the Comptroller's expertise and activities regarding property taxes. Other provisions in the bill include reducing the size of the Board and including public representation, and repealing the exemption from registration for tax assessor-collectors in large counties. The list below summarizes the major provisions of S.B. 276, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Board for 12 Years and Strengthen Its Ties With the Comptroller of Public Accounts.
2. Decrease the Board's Size From Six to Five Members and Include Public Representation.
3. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

Sunset Provisions

1. Continue the Board for 12 Years and Strengthen Its Ties With the Comptroller of Public Accounts.

Senate Bill 276 continues the Board of Tax Professional Examiners for 12 years as an independent agency responsible for regulating property tax professionals. To assist this small agency in meeting its administrative responsibilities and help the Board focus more on its major program function, the bill requires the Board to expand the scope of its current contract with the Comptroller to include additional administrative functions, including payroll, budgeting, information technology support, human resources, and other services as needed by the Board. In addition, the Board will be able to take advantage of the Comptroller's specific activities regarding property taxes to improve the Board's oversight of tax professionals. The Board must pay for the services it receives and explore moving out of its current office space in the Hobby Building and co-locating with the Comptroller.

2. Decrease the Board's Size from Six to Five Members and Include Public Representation.

This provision brings the Board into compliance with a constitutional provision requiring boards and commissions to consist of an odd number of members. The bill reduces the size of the Board from six to five members by removing a member representing the tax professional industry. The bill also replaces another industry representative with a public member to ensure public perspective in Board decisions. As a result, the Board will consist of four members representing the tax professional industry and one member representing the general public.

3. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

Senate Bill 276 includes four provisions that bring the Board in line with standard licensing agency practices, consisting of the following.

- Repeals the exemption from registration for assessor-collectors in counties with a population of more than one million and the special continuing education requirements for those exempted from registration.
- Eliminates the application notarization requirement for individuals who apply for licensure with the Board.
- Requires the Board to adopt rules to ensure that its certification exams are accessible to persons with disabilities in accordance with the Americans with Disabilities Act.
- Grants the Board a full range of sanctions and requires the Board to adopt, in rule, guidelines governing its use of lighter sanctions to ensure that the Board uses these sanctions consistently.

Fiscal Implication Summary

This legislation will not have a fiscal impact to the State.

Texas Workforce Commission

Staff Contact: Ginny McKay

S.B. 280 Nelson (Solomons/Keffer, J.)

Summary

The Texas Workforce Commission (TWC) plans, delivers, and oversees workforce services to meet the needs of Texas businesses, workers, and communities through a locally controlled delivery system. The Legislature created the Commission in 1995 by merging workforce programs from 10 different state agencies. The Texas Workforce Commission oversees employment and job training services provided through Local Workforce Development Boards, serving more than two million clients a year through 260 one-stop career centers statewide. The agency also operates the State's unemployment insurance system, handling more than one million claims in fiscal year 2002. The Commission operates with an annual budget of about \$1 billion, 87 percent of which is federal funds, and a staff of about 3,900.

Senate Bill 280 continues TWC for six years, and includes all of the Sunset Commission's recommendations, with some modifications. These changes involve the Commissioners' duties, employer involvement, local board oversight, service integration, employment outcomes, unemployment insurance, and career school regulation. The Legislature also added a number of provisions regarding employment training, child care, family violence, and the use of bonds to replenish the unemployment compensation fund. The list below summarizes the major provisions of S.B. 280, and a more detailed discussion follows.

Sunset Provisions

1. Separate the Role of the TWC Commissioners in Setting Policy for the Agency From That of the Executive Director in Running the Agency.
2. Partner With Business to Equip Workers and Job Seekers With Needed Skills.
3. Improve the Accountability and Coordination of Adult Education Services Between TWC and the Texas Education Agency.
4. Require TWC to Evaluate, and Make Public, the Capacity of Local Workforce Boards to Oversee and Manage Local Funds and Services.
5. Integrate Key Workforce Programs to Streamline the Delivery of Services.
6. Require an Annual Evaluation of Child Care Allocation Formulas.
7. Track Employment Outcomes of Parents Receiving Subsidized Child Care.
8. Prohibit Certain Unfair Partial Transfers of Unemployment Compensation Experience Rates.
9. Authorize TWC to Issue Cease-and-Desist Orders to Bring Unlicensed Proprietary Schools Into Compliance.

10. Replace the Tuition Protection Fund With the Career School or College Tuition Trust Account.
11. Continue the Texas Workforce Commission for Six Years.

Provisions Added by the Legislature _____

12. Require TWC to Establish Contracting Guidelines for Local Workforce Boards.
13. Require Skills Assessments and Wage Tracking for TANF Choices Participants.
14. Provide Parents With More Notice When Terminating Child Care Assistance.
15. Encourage Local Boards to Support Collaborative Reading Initiatives.
16. Allow Employers to Obtain Tax Refunds for Providing Medical Savings Plans to Employees That Are Former Recipients of Public Assistance.
17. Authorize TWC to Use Bonds to Replenish the Unemployment Compensation Fund.
18. Allow Certain Victims of Family Violence to Receive Unemployment Insurance Benefits.
19. Strengthen and Update TWC's Career Schools and Colleges Act.

Sunset Provisions

1. Separate the Role of the TWC Commissioners in Setting Policy for the Agency From That of the Executive Director in Running the Agency.

The Legislature adopted the Sunset Commission's recommendation to clearly separate the powers and duties of the Commissioners from the Executive Director and staff, with some modifications. Senate Bill 280 limits the Commissioners' activities to the following:

- setting agency policies;
- adopting rules necessary to administer these policies;
- giving general direction to the Executive Director on the implementation of these policies;
- approving the agency's budget recommendation to the Legislature; and
- reviewing appealed unemployment insurance cases.

The bill specifies that the Commission may carry out these duties only when acting as a governmental body. Senate Bill 280 also prohibits the Commission and individual Commission members from directing the day-to-day operations of the Executive Director or other agency staff.

The Legislature also adopted the Sunset Commission's recommendation to establish a Local Workforce Development Board Advisory Committee. Senate Bill 280 requires the Workforce Leadership of Texas (WLT) to establish this committee to advise TWC on the programs, policies, and rules that affect the local workforce delivery system. The advisory committee consists of nine members from WLT, six of whom are local workforce development board members, and three of whom are local workforce development board staff directors.

2. Partner With Business to Equip Workers and Job Seekers With Needed Skills.

Senate Bill 280 requires TWC to partner with the business community to better equip workers and job seekers with the skills required to compete for jobs in this state. The bill requires TWC to work with business to identify key industries, skills needs, and employment opportunities. The bill also requires TWC to work with business in developing programs to advance the skills of job seekers and workers.

3. Improve the Accountability and Coordination of Adult Education Services Between TWC and the Texas Education Agency.

The Legislature adopted a series of Sunset Commission recommendations to ensure adult education and literacy services meet the workforce, as well as educational, needs of Texans; and to improve accountability of these services to the Legislature. The bill requires the Texas Education Agency (TEA) to monitor and evaluate educational and employment outcomes of adult education students, and to better coordinate with TWC on adult education services. The legislation requires TEA and TWC to work through the Texas Workforce Investment Council to implement strategies to resolve ongoing problems between the two agencies that hamper the delivery and accountability of adult education services. The bill also includes a provision that requires TEA to use existing funds to contract with TWC to develop a workplace literacy and basic skills curriculum. This curriculum will help bridge the gap between skills being taught and the skills employers need for current and emerging jobs.

4. Require TWC to Evaluate, and Make Public, the Capacity of Local Workforce Boards to Oversee and Manage Local Funds and Services.

The bill requires TWC to develop criteria to assess local boards' overall capacity to administer and oversee local funds and services. These criteria will reduce unnecessary duplication of monitoring activities, and ensure local boards with poor oversight practices improve over time. The Texas Workforce Commission must also develop performance measures based on these criteria to use as indicators of local board performance. The Legislature modified this provision to require TWC to use existing performance measure data to evaluate how well local workforce centers perform across multiple programs. The Texas Workforce Commission must publish this information on its Web site to ensure that the public is given clear information on the performance of local boards and individual centers responsible for delivery of workforce services.

5. Integrate Key Workforce Programs to Streamline the Delivery of Services.

A primary goal for merging workforce programs into a single agency and devolving control to the local level was to improve service delivery to customers, while also achieving greater efficiency and effectiveness at reduced costs through privatization. Senate Bill 280 continues to move the workforce system in that direction by requiring TWC and local boards to integrate the administration of key workforce programs, and associated caseworker functions. These requirements apply to integration of the three key federal employment and training programs and the child care program, and are phased in over four years.

No later than September 1, 2004, TWC must modify its "state level" rules, performance measures, policies, procedures, and organizational structure to ensure they support the integration of workforce programs and services at the local level. Local workforce boards will then have until September 1, 2007 to fully integrate the delivery of these services in their one-stop centers. To provide additional local flexibility, the Legislature modified a Sunset provision to ensure that eligibility determination and case management services are provided through a single point of contact, and only for customers receiving services from more than one program.

6. Require an Annual Evaluation of Child Care Allocation Formulas.

Senate Bill 280 requires TWC to review child care allocation formulas annually to ensure that local needs and costs are reflected in the formulas. Factors to be considered for each local workforce board area should include, among others, the board's ability to meet performance measures, the general cost of child care in the area, and the poverty rate in the area relative to the state poverty rate.

7. Track Employment Outcomes of Parents Receiving Subsidized Child Care.

Senate Bill 280 requires TWC to track employment-related outcomes of parents receiving subsidized child care and report its findings to the Legislature in 2005. The agency must use employee wage records to obtain outcome information such as whether parents receiving both welfare and child care subsidies find and keep jobs, and whether parents receiving only subsidized child care keep their jobs and increase their earnings. The Legislature modified this provision to also require TWC to evaluate the effectiveness of the child care program to improve the training of child care professionals and to facilitate collaboration with other related agencies.

8. Prohibit Certain Unfair Partial Transfers of Unemployment Compensation Experience Rates.

The Legislature adopted the Sunset Commission's recommendation to allow TWC to deny a partial transfer of unemployment compensation experience. The provision was modified to allow the denial if the acquisition or reorganization were done primarily, rather than solely, to qualify for a reduced tax rate by circumventing the experience rating system. Senate Bill 280 also establishes a one-year time limit for employers to file an application for a partial transfer and prohibits partial transfers for part of an organization, trade, or business that cannot operate independently.

9. Authorize TWC to Issue Cease-and-Desist Orders to Bring Unlicensed Proprietary Schools Into Compliance.

Senate Bill 280 provides TWC with the authority to issue cease-and-desist orders to bring uncooperative unlicensed schools into compliance with state law. Schools that fail to respond to such an order from TWC will be referred to the Office of the Attorney General for enforcement action.

10. Replace the Tuition Protection Fund With the Career School or College Tuition Trust Account.

The Legislature modified the Sunset Commission's recommendations to strengthen the Tuition Protection Fund. The bill authorizes the use of an existing trust account, renamed the Career School or College Tuition Trust Account, to provide a more secure and flexible source of revenue for student refunds. The bill provides a \$1 million ceiling for the trust account, and \$150,000 per school closure. The bill clarifies that students are not guaranteed a full refund if a school closes, and outlines the factors TWC can take into consideration in determining refund amounts. The bill eliminates the surety bond requirement for career schools and colleges.

The Legislature also modified a provision on refunds to require the shareholders of unlicensed schools to make full refunds in the event of a school closure. The bill also changes all references to proprietary schools to the more appropriate term "career schools and colleges."

11. Continue the Texas Workforce Commission for Six Years.

The bill continues TWC for six years, rather than the standard 12 years. The 2009 review date will provide the Legislature with an earlier opportunity to re-examine the agency and the workforce system as it continues to mature, and to ensure that the changes adopted in this legislation have been successfully implemented.

Provisions Added by the Legislature

12. Require TWC to Establish Contracting Guidelines for Local Workforce Boards.

The Legislature added provisions that require TWC to adopt rules, in consultation with local boards, to help ensure the financial security of independent contractors and prevent potential conflicts of interest between the board and the contractor. The bill specifically prohibits a board's staff from directing or controlling the staffing of any entity that contracts with the board to provide one-stop

workforce services. The bill requires TWC to adopt these rules no later than March 1, 2004, and specifies that this requirement is not intended to require TWC to adopt rules prohibiting any particular contracting model. Local boards operating under, or in the process of adopting, certain contracting models, as specified in the bill, have until September 1, 2004 to comply with the new rules.

13. Require Skills Assessments and Wage Tracking for TANF Choices Participants.

The Legislature added provisions related to improving self-sufficiency of clients participating in the State's welfare-to-work Temporary Assistance for Needy Families (TANF) Choices program. TWC, in partnership with local boards, must report to the Legislature the percentage of TANF Choices program clients placed in employment paying wages at 200 percent or more of the federal poverty level.

In addition, TWC must ensure that local boards assess the skills development needs of Choices clients, and determine whether clients need job training to obtain employment paying locally set self-sufficiency wages. Clients requiring skill development must be placed in training activities designed to comply with federal requirements, target occupations in demand by local employers, and improve client employment and job retention outcomes. Local boards may allow clients to concurrently participate in a combination of training and work activities to meet federal participation requirements.

14. Provide Parents With More Notice When Terminating Child Care Assistance.

The Legislature adopted a provision that requires TWC to direct local workforce boards to provide parents with at least 30 days written notice before terminating the parents' child care subsidy. If providing the 30-day notice would jeopardize a local board's performance measures or require more funds than the board has been allocated, the board must provide notice as soon as practical.

15. Encourage Local Boards to Support Collaborative Reading Initiatives.

The Legislature added a provision that requires TWC to encourage each local board to raise additional local matching child care funds, in excess of the amount required to meet performance measures, to support collaborative reading initiatives within child care facilities that receive funding through the board.

16. Allow Employers to Obtain Tax Refunds for Providing Medical Savings Plans to Employees That Are Former Recipients of Public Assistance.

The Legislature added this provision to the law providing tax refunds to employers for hiring people on public assistance and providing them with health care plans. The bill expands the type of health care benefits that qualify for tax refunds to include medical savings plans. The bill also limits the conditions under which an employer can transfer such a refund to another employer.

17. Authorize TWC to Use Bonds to Replenish the Unemployment Compensation Fund.

The Legislature added this provision to allow TWC to work with the Texas Public Finance Authority to issue bonds to replenish the unemployment compensation fund and pay unemployment benefits rather than borrowing from the federal government. Senate Bill 280 authorizes bonds to be issued for these purposes only if the Commission determines that bond financing is more cost effective than borrowing from the federal government.

18. Allow Certain Victims of Family Violence to Receive Unemployment Insurance Benefits.

The Legislature added this provision to provide unemployment insurance benefits to victims of family violence or stalking. Senate Bill 280 allows employees to receive unemployment benefits if their separation from work resulted from family violence or stalking as evidenced by a protective order, a police record, and a physician's statement, each documenting family violence against or stalking of the employee.

19. Strengthen and Update TWC's Career Schools and Colleges Act.

The Legislature adopted several provisions regarding career schools and colleges. The bill updates references to the term "correspondence" with "distance education" throughout Chapter 132, Education Code; and defines distance education to help ensure appropriate refunds for students enrolled in such classes. The bill requires career schools or colleges that believe they are exempt from regulation to apply for and obtain an exemption from licensure by TWC. The Legislature also added a provision to transfer the hearings process related to career schools or colleges from the State Office of Administrative Hearings to TWC's special hearings department.

Fiscal Implication Summary

The provisions in Senate Bill 280 regarding TWC will result in net savings to the State and Texas employers. These provisions are discussed below, followed by a five-year summary chart.

Streamlining workforce programs to support integrated services will result in administrative savings to state and federal funds of \$4.2 million and a reduction of 35 staff positions, starting in fiscal year 2006. To avoid the loss of federal funds, these savings will need to be redirected into workforce services.

Reducing the unfair use of partial transfers relating to unemployment insurance taxes will prevent losses to the Unemployment Compensation Fund and indirectly reduce experience-related employers' unemployment insurance tax rates. However, the actual reduction in employer taxes cannot be estimated.

Authorizing TWC to issue bonds to replenish the Unemployment Compensation Fund will lower costs to employers by reducing the need to borrow these funds from the federal government at higher rates of interest. While this provision has no net fiscal impact to General Revenue related funds, employers may save several million dollars per year due to lowered Unemployment Compensation Fund tax payments.

Fiscal Year	Administrative Savings to State and Federal Funds*	Change in Staff Positions From 2003
2004	\$0	0
2005	\$0	0
2006	\$4,200,000	-35
2007	\$4,200,000	-35
2008	\$4,200,000	-35
<i>*Savings to state and federal funds will need to be re-directed into services to avoid the loss of federal funds.</i>		

Texas Council on Workforce and Economic Competitiveness

Staff Contact: Ginny McKay

S.B. 281 Nelson (Solomons)

Summary

The Texas Council on Workforce and Economic Competitiveness (the Council) was established in 1993 to plan for and evaluate workforce services in Texas that cut across the following state agencies:

- Texas Workforce Commission,
- Department of Human Services,
- Higher Education Coordinating Board,
- Department of Economic Development, and
- Texas Education Agency.

The Council is made up of 20 members representing business, labor, education, community-based organizations, and each of the agencies listed above. The Council operates with an annual budget of about \$1 million and 12 staff, and is housed within the Governor's Office.

Senate Bill 281 continues the Council for 12 years, renamed as the Texas Workforce Investment Council. The bill enhances the Council's ability to evaluate and improve the State's workforce development system to better meet the needs of employers and workers. The Legislature adopted the Sunset Commission's recommendations and added a provision to reduce the size of the Council. The list below summarizes the major provisions of S.B. 281, and a more detailed discussion follows.

Sunset Provision

1. Continue the Council for 12 Years, With Changes to Better Evaluate Services and Resolve Problems Across Member Agencies.

Provision Added by the Legislature

2. Reduce the Size of the Council From 20 to 19 Members.

Sunset Provision ---

1. Continue the Council for 12 Years, With Changes to Better Evaluate Services and Resolve Problems Across Member Agencies.

Senate Bill 281 continues the Council on Workforce and Economic Competitiveness for 12 years, renamed as the Texas Workforce Investment Council. The bill also designates the Executive Director, rather than the Board Chair, of each of the five state agency members to represent their agency as an ex officio member of the Council. The bill requires the Council to identify and address problems that hinder the successful development of integrated workforce services. The Council must include a list of cross-agency issues to be resolved, and results of these efforts, in its annual report to the Governor and the Legislature. The Council also must clearly identify the member agencies responsible for implementing specific strategies and time frames for making needed changes. Senate Bill 281 also improves the collection and analysis of workforce and education program data by transferring the automated follow-up and evaluation system to the Texas Workforce Commission. However, the Council will maintain access to information needed for evaluating the workforce development system, and will continue to fund the follow-up system through its member agencies.

Provision Added by the Legislature ---

2. Reduce the Size of the Council From 20 to 19 Members.

Senate Bill 281 brings the Council into compliance with a 1999 constitutional amendment requiring boards and commissions to consist of an odd number of members. The bill removes one of the community-based organization positions, leaving the Council with five business, five labor, three education, one community-based organization, and five ex officio state agency members.

Fiscal Implication Summary ---

This legislation will not have a fiscal impact to the State.

**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 of the ATBs to each of the agencies under review for the 78th 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 approximately 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 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.

12. State Employee Incentive Program – Require training on participation in the State Employee Incentive Program.

This recommendation ensures that an agency's employees are educated on the State's program to reward innovative and cost-saving measures, which can improve the agency's operations and reward the employee(s) involved.

13. Technology Use – Require agencies to make effective use of technology.

This recommendation requires agencies to ensure the effective use of technology in the delivery of services and provision of information to the public.

14. Alternative Dispute Resolution – Develop and use appropriate alternative rulemaking and dispute resolution procedures.

In 1997, the Legislature enacted two statutes relating to the use of alternative procedures for rulemaking and dispute resolution by government agencies: the Negotiated Rulemaking Act (Ch. 2008, Government Code) and the Governmental Dispute Resolution Act (Ch. 2009, Government Code). The purpose of these statutes is to provide clear authority to government agencies to develop and use these types of procedures. This recommendation requires agency policymaking bodies to develop a written, comprehensive plan that encourages the use of the alternative procedures for the agency's rulemaking and for internal employee grievances, inter-agency conflicts, contract disputes, actual or potential contested matters, and any other appropriate potential conflict area.

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 Under Review

For the agencies under Sunset review for the 78th Legislative Session, each of the ATBs was evaluated and applied where appropriate. If the standard approach did not fit, 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 that underwent review in the 78th Legislative Session. However, the Sunset bills for the State Board for Educator Certification and the Texas Lottery Commission did not pass. As a result, no ATB changes were applied to those agencies.

Sunset Across-the-Board Recommendations – 2003							
	Accountancy, Texas State Board of Public	Administrative Hearings, State Office of	Aerospace Commission, Texas	Architectural Examiners, Texas Board of (Architecture Statute)	Architectural Examiners, Texas Board of (Interior Design Statute)	Architectural Examiners, Texas Board of (Architecture Statute)	
General							
1. Public Membership	S	N/A	A	S			
2. Conflicts of Interest	M	A	U	U			
3. Nondiscriminatory Appointments	S	A	U	S			
4. Governor Designates Presiding Officer	S	N/A	A	S			
5. Grounds for Removal	U	M	A	U			
6. Standards of Conduct	S	A	A	U			
7. Board Member Training	A	N	A	A			
8. Separation of Functions	U	N/A	A	U			
9. Public Input	S	S	A	U			
10. Complaint Information	U	A	A	M			
11. Equal Employment	U	A	A	U			
12. Employee Incentive Program	A	A	A	A			
13. Technology Use	A	A	A	A			
14. Alternative Dispute Resolution	A	M	M	A			
Licensing							
1. Time Frames	M	N/A	N/A	M	M	M	
2. Notification of Exam Results	S	N/A	N/A	U	U	U	
3. Endorsement and Reciprocity	S	N/A	N/A	U	U	U	
4. Provisional Licenses	N	N/A	N/A	N	N	N	
5. Staggered Renewal of Licenses	A	N/A	N/A	U	U	U	
6. Full Range of Penalties	M	N/A	N/A	U	U	U	
7. Advertising and Competition	S	N/A	N/A	M	A	M	
8. Continuing Education	S	N/A	N/A	M	M	M	
<p>A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable</p> <p>¹ ATBs 2 and 5 were also applied to the Dental Hygiene Advisory Committee.</p> <p>² Licensing ATBs for Medication Aides only.</p> <p>³ Provisions in S.B. 276, the Sunset legislation for the Board of Tax Professional Examiners, addressed public membership on the Board and the agency's penalty authority directly.</p> <p>⁴ Licensing ATBs for Proprietary Schools only.</p>							

Sunset Across-the-Board Recommendations – 2003						
	Bar of Texas, State	Court Reporters Certification Board	Dental Examiners, State Board of	Economic Development, Texas Department of	Engineers, Texas Board of Professional	Ethics Commission, Texas
General						
1. Public Membership	N/A	U	M	N/A	U	N
2. Conflicts of Interest	U	U	S ¹	M	U	M
3. Nondiscriminatory Appointments	U	U	U	N/A	U	U
4. Governor Designates Presiding Officer	N/A	N	A	N/A	A	N
5. Grounds for Removal	U	M	U ¹	N/A	U	A
6. Standards of Conduct	U	A	S	U	A	A
7. Board Member Training	M	A	U	N/A	A	A
8. Separation of Functions	U	N	S	N/A	A	A
9. Public Input	S	A	S	N/A	A	S
10. Complaint Information	M	A	U	U	U	U
11. Equal Employment	U	A	S	S	A	A
12. Employee Incentive Program	A	A	A	A	A	A
13. Technology Use	A	A	A	A	A	A
14. Alternative Dispute Resolution	N/A	A	A	A	A	M
Licensing						
1. Time Frames	M	M	A	N/A	M	N/A
2. Notification of Exam Results	N/A	M	S	N/A	U	N/A
3. Endorsement and Reciprocity	N/A	M	S	N/A	A	N/A
4. Provisional Licenses	N/A	N	M	N/A	A	N/A
5. Staggered Renewal of Licenses	M	A	S	N/A	U	N/A
6. Full Range of Penalties	N/A	A	M	N/A	U	N/A
7. Advertising and Competition	M	M	S	N/A	M	N/A
8. Continuing Education	A	S	M	N/A	M	N/A
A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable ¹ ATBs 2 and 5 were also applied to the Dental Hygiene Advisory Committee. ² Licensing ATBs for Medication Aides only. ³ Provisions in S.B. 276, the Sunset legislation for the Board of Tax Professional Examiners, addressed public membership on the Board and the agency's penalty authority directly. ⁴ Licensing ATBs for Proprietary Schools only.						

Sunset Across-the-Board Recommendations – 2003							
	Funeral Service Commission, Texas	Higher Education Coordinating Board, Texas	Housing Corporation, Texas State Affordable	Human Services, Texas Department of ²	Land Surveying, Texas Board of Professional	Law Examiners, Board of	
General							
1. Public Membership	S	S	N	M	U	N/A	
2. Conflicts of Interest	S	U	A	M	U	U	
3. Nondiscriminatory Appointments	S	S	A	S	U	U	
4. Governor Designates Presiding Officer	S	S	S	A	S	N/A	
5. Grounds for Removal	S	U	A	U	U	U	
6. Standards of Conduct	S	S	A	S	U	S	
7. Board Member Training	S	A	A	S	A	A	
8. Separation of Functions	S	S	A	U	S	U	
9. Public Input	S	S	S	U	S	S	
10. Complaint Information	S	U	A	M	U	A	
11. Equal Employment	S	U	M	U	U	U	
12. Employee Incentive Program	S	A	N/A	A	A	A	
13. Technology Use	A	A	A	A	A	A	
14. Alternative Dispute Resolution	A	A	N	A	A	N/A	
Licensing							
1. Time Frames	S	N/A	N/A	A	U	N/A	
2. Notification of Exam Results	S	N/A	N/A	A	U	N/A	
3. Endorsement and Reciprocity	N/A	N/A	N/A	N/A	S	N/A	
4. Provisional Licenses	S	N/A	N/A	N/A	N	N/A	
5. Staggered Renewal of Licenses	S	N/A	N/A	A	U	N/A	
6. Full Range of Penalties	S	N/A	N/A	U	U	N/A	
7. Advertising and Competition	S	N/A	N/A	N/A	S	N/A	
8. Continuing Education	S	N/A	N/A	S	S	N/A	
<p>A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable</p> <p>¹ ATBs 2 and 5 were also applied to the Dental Hygiene Advisory Committee.</p> <p>² Licensing ATBs for Medication Aides only.</p> <p>³ Provisions in S.B. 276, the Sunset legislation for the Board of Tax Professional Examiners, addressed public membership on the Board and the agency's penalty authority directly.</p> <p>⁴ Licensing ATBs for Proprietary Schools only.</p>							

Sunset Across-the-Board Recommendations – 2003							
	Licensing and Regulation, Texas Department of	Plumbing Examiners, Texas State Board of	Purchasing from People with Disabilities, Texas Council on	Tax Professional Examiners, Board of	Workforce Examiners,	Workforce and Economic Competitiveness, Texas ⁴ Council on	
General							
1. Public Membership	S	N	A	M ³	M	N	
2. Conflicts of Interest	A	U	S	A	M	N	
3. Nondiscriminatory Appointments	S	U	S	A	S	A	
4. Governor Designates Presiding Officer	A	A	S	A	U	U	
5. Grounds for Removal	U	U	S	A	U	U	
6. Standards of Conduct	A	A	U	A	U	A	
7. Board Member Training	A	A	U	A	M	M	
8. Separation of Functions	U	A	A	A	M	A	
9. Public Input	S	A	S	A	A	A	
10. Complaint Information	M	M	A	A	U	A	
11. Equal Employment	U	A	N/A	A	U	N	
12. Employee Incentive Program	A	A	N/A	A	A	A	
13. Technology Use	A	A	A	A	A	A	
14. Alternative Dispute Resolution	A	A	A	A	M	N/A	
Licensing							
1. Time Frames	see pages 130-131	M	N/A	S	N	N/A	
2. Notification of Exam Results		S	N/A	A	N/A	N/A	
3. Endorsement and Reciprocity		U	N/A	A	N	N/A	
4. Provisional Licenses		A	N/A	N	N	N/A	
5. Staggered Renewal of Licenses		S	N/A	N	S	N/A	
6. Full Range of Penalties		M	N/A	M ³	N	N/A	
7. Advertising and Competition		S	N/A	N	S	N/A	
8. Continuing Education		S	N/A	A	N/A	N/A	
<p>A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable</p> <p>¹ ATBs 2 and 5 were also applied to the Dental Hygiene Advisory Committee.</p> <p>² Licensing ATBs for Medication Aides only.</p> <p>³ Provisions in S.B. 276, the Sunset legislation for the Board of Tax Professional Examiners, addressed public membership on the Board and the agency's penalty authority directly.</p> <p>⁴ Licensing ATBs for Proprietary Schools only.</p>							

Texas Department of Licensing and Regulation									
	Air Conditioning Contractors	Architectural Barriers	Auctioneers	Boilers	Career Counseling Services	Combative Sports	Court Interpreters	Elevators and Escalators	Industrialized Housing and Buildings
Licensing									
1. Time Frames	A	N	A	A	A	N	A	N	N
2. Notification of Exam Results	U	U	U	U	N	N	A	N	N
3. Endorsement and Reciprocity	S	N	S	S	N	S	A	N	S
4. Provisional Licenses	N	N	N	N	N	N	N	N	N
5. Staggered Renewal of Licenses	S	M	S	S	S	S	S	S	S
6. Full Range of Penalties	M	S	M	S	S	M	M	M	M
7. Advertising and Competition	S	S	S	S	S	S	S	S	S
8. Continuing Education	U	U	A	U	A	N	A	A	U
A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable									

Texas Department of Licensing and Regulation										
	Personnel Employment Services	Property Tax Consultants	Service Contract Providers	Staff Leasing Services	Talent Agencies	Temporary Common Worker Employers	Vehicle Protection Product Warrantors	Water Well Drillers	Water Well Pump Installers	Weather Modification
Licensing										
1. Time Frames	A	U	A	A	A	A	A	U	U	A
2. Notification of Exam Results	N	U	N	N	N	N	N	U	A	N
3. Endorsement and Reciprocity	A	M	A	A	A	N	A	S	S	N
4. Provisional Licenses	N	N	N	N	N	N	N	N	N	N
5. Staggered Renewal of Licenses	S	S	S	S	S	S	S	U	U	A
6. Full Range of Penalties	S	M	M	M	M	S	M	S	S	S
7. Advertising and Competition	S	S	S	S	S	S	S	S	S	S
8. Continuing Education	A	M	A	N	N	N	N	U	U	N
A=apply; U=update; M=modify; S=already in statute; N=do not apply; N/A=not applicable										

APPENDIX

Sunset Review Schedule - 2005

Business and Economic Development

Film Industry Development Loan Guarantee Program, Texas
Lottery Commission, Texas

Education

Education Agency, Texas
Educator Certification, State Board for
Guaranteed Student Loan Corporation, Texas
Regional Education Service Centers
Telecommunications Infrastructure Fund Board
Windham School District

Licensing

Acupuncture Examiners, Texas State Board of
Barber Examiners, State Board of
Chiropractic Examiners, Texas Board of
Cosmetology Commission, Texas
Counselors, Texas State Board of Examiners of Professional
Dietitians, Texas State Board of Examiners of
Marriage and Family Therapists, Texas State Board of Examiners of
Medical Examiners, Texas State Board of
Midwifery Board, Texas
Optometry Board, Texas
Perfusionists, Texas State Board of Examiners of
Pharmacy, Texas State Board of
Physician Assistant Examiners, Texas State Board of
Podiatric Medical Examiners, Texas State Board of
Psychologists, Texas State Board of Examiners of
Social Worker Examiners, Texas State Board of
Veterinary Medical Examiners, State Board of

Regulatory

Alcoholic Beverage Commission, Texas

Electric Utility Restructuring Legislative Oversight Committee

Public Utility Commission of Texas

Public Utility Counsel, Office of

Workers' Compensation Commission, Texas