



**Texas  
Sunset  
Advisory  
Commission**

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**STAFF EVALUATION**

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*Advisory Council on Technical-Vocational Education*  
*Office of State-Federal Relations*  
*Texas Advisory Commission on Intergovernmental Relations*  
*State Securities Board*  
*Texas Commission on the Arts*

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A Staff Report  
to the  
Sunset Advisory Commission



1982

**SUNSET ADVISORY COMMISSION**

**STAFF REPORT**

**on the**

**ADVISORY COUNCIL ON TECHNICAL-VOCATIONAL EDUCATION**

**1982**



## FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.



## INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

This sunset staff evaluation covers the following state agencies:

Advisory Council on Technical-Vocational Education  
Office of State-Federal Relations  
Texas Advisory Commission on Intergovernmental Relations  
State Securities Board  
Texas Commission on the Arts

The Texas Sunset Act abolishes these agencies on September 1, 1983 unless each is re-established by the 68th Legislature.

The staff reviewed the activities of these agencies according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations developed by the commission to deal with common problems are presented in a chart at the end of each report and are not dealt with in the text except in one instance. When the review develops a position which opposes the application of a particular recommendation, the rationale for the position is set forth in the text.



**SUMMARY OF STAFF FINDINGS AND CONCLUSIONS**



## SUMMARY

### Organization and Objectives

The creation of the Advisory Council for Technical-Vocational Education (ACTVE) was mandated by the federal Vocational Education Amendments of 1968 and constituted by state statute September 1, 1969. The 25-member council is composed of 20 federally-mandated membership categories and five state-designated categories. Members are recommended by the governor, appointed by the State Board of Vocational Education (in Texas - the State Board of Education) and confirmed by the senate for staggered three-year terms. The governor must ensure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the state. The majority of council members must be non-educators. An independent staff of five provides support for the council and its activities. Funding for the council is set at \$220,000 for fiscal year 1982 and at \$230,000 for fiscal 1983 from federal and state sources.

Because the receipt of federal vocational education funds is contingent upon the existence of an advisory council performing well-defined functions, the advisory activities of the council in Texas are conducted in much the same form as other states. To ensure that the expenditure of federal funds for vocational education in Texas by the State Board of Education is effected in a manner that is responsive to technical, vocational and adult education needs in the state, the federal government requires the establishment of an advisory council to make recommendations to the board concerning the current and future needs of vocational-technical education in Texas. The diverse representation of the council's large membership assists the council in its primary responsibilities of: 1) collecting and evaluating information gathered within the state concerning educational needs; and 2) formulating recommendations to the State Board of Education concerning activities necessary to address these needs.

In order to effectively collect and evaluate information necessary to make recommendations, the council members use an internal committee process to produce an annual program of work. Targeted areas are then assigned to one of the council's four standing committees for monitoring and accomplishment. During fiscal year 1982, some 76 topics were referred to these committees for continued effort with 41 of the topics requiring action prior to the end of the fiscal year. In addition, the council conducts an annual public forum which allows citizens an

opportunity to present their views regarding vocational-technical education in Texas. These hearings are conducted each year at either the state, regional, or local level. For the past five years, statewide hearings were held in three of the years and regional hearings in the other two. As required by statute, the council also conducts workshops and seminars to exchange information with local groups and provide technical assistance to local advisory councils through the use of presentations and brochures. A series of 20 such workshops with a combined attendance of 2,534 people was conducted in 1981.

To ensure broad participation by the council in the long range planning processes for technical-vocational education in the state, the federal government requires the council to assist in the development of related state plans. These plans include the vocational education five-year state plan, the annual program plan and the accountability report. The council participates in meetings with the State Board of Education and Texas Education Agency (TEA) staff to discuss the above reports which are prepared by TEA. The council's certification of participation, which is a statement required by the federal government stating that the report was prepared in consultation with the council, accompanies the submission of these reports to the federal government.

The recommendation aspect of the council's operation is accomplished by compiling and analyzing information gained through its public meetings and in meetings with the state board and Texas Education Agency staff. Additionally, the council conducts surveys and related evaluation activities to develop its recommendations. The council prepares a formal report to the state board detailing its recommendations to the state board regarding needed improvements in vocational-technical education. By statute, the board must respond to recommendations made by the council. In 1982, the council made 9 new recommendations to the board. During the years 1970-1981, the board rejected only 9 percent of the council's recommendations and completed action on 27 percent of those accepted.

In addition to its annual report to the board, the council produces various other publications designed to inform and instruct a variety of groups about vocational education. The monthly ACTIVE newsletter is sent to over 2,500 persons, while brochures produced by and for the council have been distributed to almost 300,000 individuals in 1980 and 1981.

The review and evaluation of the agency indicates that the council has fulfilled its role as an advisory body in an adequate manner. However, if the

agency is to be continued, modifications in the council's structure, administration, and program activities should be made to improve its efficiency and effectiveness.

### **Policy-Making Structure**

The policy-making structure of the agency is designed according to federal requirements and meets those requirements. The state has relatively little leeway to adjust either the number of members, the composition of the membership or the terms of the members. The review did indicate however that the number of members could be reduced from 25 to 21 without violating federal requirements and without diluting necessary representation. The review also disclosed that the current federal requirement of three-year terms for members conflicted with state requirements for two- or six-year terms and that the agency should attempt to resolve this conflict through negotiation with the federal government.

### **Overall Agency Administration**

The review of the overall administration of the agency focused on determining whether the operating policies and procedures of the agency provide a satisfactory framework which is adequate for the internal management of personnel and funds and which satisfies reporting and management requirements placed on the agency and enforced through other state agencies. The results of the review indicate that the administration of the agency is generally conducted in an efficient manner. However, the full costs of the agency are not currently shown. The appropriation bill does not set out the costs associated with rent and other services supplied by TEA and this cost should be shown to increase accountability. The statute of the agency currently contains unnecessary and unused requirements relating to internal agency rules and hearings. The requirements should be removed from the statute. Also, unnecessary reporting costs could be eliminated by changing the statute so that the agency is required to make one biennial report instead of the separate reports currently required to be made to the legislature and the governor.

### **Evaluation of Programs**

The review of the program activities of the agency centered on how well it has fulfilled its mandate to advise the State Board of Education on the needs of vocational education. The results of the review indicate that the agency has developed adequate procedures to identify areas of need, gather information on these areas; and to develop and disseminate the results. The success or lack of

success in having its recommendations adopted is dependent upon many factors outside the control of the agency. However, the results of the review also indicated that the percentage of recommendations adopted might be increased if the State Board of Education were required to develop an annual list of issues of concern to the state board in the area of technical-vocational education.

### **Other Sunset Criteria**

The review of the agency's activities related to open meetings/open records, EEOC/privacy, and public participation shows that the agency has generally complied with the requirements governing these areas with one exception. The conduct of public hearings required by statutes governing the council appear beneficial. However, the quality of the information gained through these hearings would be improved if the council was able to attract larger numbers of students and parents to these hearings. The agency currently allows state personnel to do work for the Vocational-Technical Education Development Foundation in return for services provided by the foundation. At the time of the review, this was done without a formal contract. The agency has taken steps to incorporate the services provided by each into a formal resolution setting out the requirements of the agency and foundation.

### **Need to Continue Functions**

The review indicated that there is a need to continue the advisory function of the council if federal vocational education funds are to continue to flow to the state. If federal funds do not continue, the review indicated a need for the advisory function with appropriate independence from the agency it is advising.

### **Approaches for Sunset Commission Consideration**

#### **I. MAINTAIN THE COUNCIL WITH MODIFICATIONS**

- A. Agency operations
  - 1. Policy-making structure
    - a. Amend the statute by changing the membership categories to agree with the 20 categories set out in the federal statute. Additionally, combine representation from proprietary schools, adult education, and a major parent organization into existing federal categories. One public member should be added to bring total membership to 21. (statutory change)

- b. Amend the statute by including all across-the-board recommendations relating to board members except the one relating to standards for appointment of board members. (statutory change)
  - c. The agency should confer with appropriate officials of the federal government regarding the required three-year terms for council members and seek resolution of the conflict between federal and state law and the state constitution. (non-statutory)
2. Overall administration
- a. Amend the statute to remove the provisions that TEA provide office space for the council thereby making an appropriation directly to the council for such expenses. (statutory change)
  - b. Amend the statute to allow the council to independently expend funds for such services as rent, utilities, telephone, postage, printing, and office supplies. (statutory change)
  - c. Amend the statute to remove the section (Tex. Ed. Code, Sec. 31.18) which requires the council to adopt procedural rules and hold hearings for educational institutions. (statutory change)
  - d. The agency should consult with the Office of the Attorney General to determine if the procedures to be followed in commenting on the State Board of Education's five-year state plan, annual program plan, and accountability report should be developed and published as formal procedural rules. (management improvement - non-statutory)
  - e. Amend the statute to require only a joint biennial report to the governor and the legislature on the activities and recommendations of the council. (statutory change)
3. Evaluation of Programs
- a. Amend the statute to require the State Board of Education to annually formulate a list of areas in vocational education where the council's assistance in research and evaluation would be useful. (statutory change)



more accurately reflect the enabling charge and intent of federal legislation; 2) the duties which have been completed, or which are no longer topical, would be eliminated; and 3) the council would not be limited to a particular set of duties and could respond as needed through legislative, state board or council initiative.



**AGENCY EVALUATION**

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
2. Does the agency operate efficiently?
3. Has the agency been effective in meeting its statutory requirements?
4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
5. Is the agency carrying out only those programs authorized by the legislature?
6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?

## BACKGROUND

### Historical Development

Until recent times the transmission of vocational skills has been largely in the hands of those outside the formal school systems. In pre-industrial America vocational education was acquired through apprenticeships rather than in a classroom. As the public school system developed, in the early 19th century emphasis shifted from the traditional grammar school with its Greek and Latin studies to that of basic literacy, mathematics, and social studies. At the same time, the transformation of the American economy from an agrarian and home-craft industry basis to that of a modern industrial society began.

The era between the Civil War and World War I was one of both agrarian and industrial growth. The population rose from approximately 40 million to twice that number. Formal vocational education during this period was limited to a few local school systems of the industrial northeast and midwest. Texas lost most of its educational system in the Civil War through funding neglect and the last two decades of the 19th century and the first of the 20th century were spent in building a public school system. Little if any vocational education was offered by local districts struggling to make basic literacy available. In 1907, the Texas Conference for Education was established which succeeded in securing the addition of vocational agriculture, homemaking, and manual training to the state course of instruction. There is little evidence, however, that very many of these programs were actually adopted locally.

National recognition that a need for vocational training existed culminated in the passage of the Smith-Hughes Act in 1917 which set in motion the development of vocational education programs in the United States. This Act provided federal monies to the states on a matching basis to foster vocational education training among high school students. One of the provisions of the Smith-Hughes Act allowed states the option of either creating a special school board for vocational education or designating existing school boards for this purpose. Texas, like most of the states, took the latter option.

The technological revolution began with World War II and continued to accelerate. The increasing demands of the technical revolution were producing increasing demands for students equipped to meet the needs in technical work areas. The incidence of high unemployment among youth at the same time that

industry was seeking skilled workers led to the passage of the Vocational Education Act of 1963. It was the first major piece of law on vocational education since the Smith-Hughes Act.

The federal legislation provided for the creation of state advisory committees if state boards of education lacked representation of persons familiar with vocational education. It was intended by Congress that representatives from management, labor, education, and the general public would advise in the planning and administration of occupational programs. This representation from various segments of America's industrial and economic population would be able to identify developing trends at the state and national levels to obtain a perspective as to what types of jobs were available, and would become available, as America's technology continued to change. The advisory function would provide information ranging from population shifts to the demands of the buying public which would enable vocational education to meet the actual needs of the day with appropriate training.

The suggested committees did not materialize at the desired rate, so, when federal vocational amendments were passed in 1968, the creation and operation of state advisory councils was mandated for participating states to continue to receive federal vocational funds. Texas created the Advisory Council for Technical Vocational Education in 1969. The federal law has been changed only slightly to require each state to certify that it had established an advisory council; to alter some membership requirements and specific duties and responsibilities; to increase fund amounts available to state advisory councils; and to add special education as an area of review.

The state law creating the advisory body has changed in minor ways since its enactment. In 1973, adult education legislation was passed in Texas. As a result, the State Board of Education designated the council to also serve as the State Advisory Committee on Adult Education. In 1975, responsibilities of the council were increased by a requirement that they make recommendations regarding methods of providing vocational education to physically and mentally handicapped individuals. No further significant changes have occurred.

### **Current Programs and Objectives**

The 25 members of the Advisory Council for Technical Vocational Education are recommended by the governor, appointed by the State Board of Education, and

confirmed by the senate. Members serve staggered three-year terms, with the terms of eight or nine members expiring on February 1st of each year. The state-mandated functions of the agency are considerably broader in scope than the original federal mandate. There are 17 state-mandated duties which enlarged upon the four areas of responsibility in the federal law. The functions of the agency are carried out through subcommittees supported by a staff consisting of an executive director, two program officers and two support staff.

The council's funding comes from both state and federal sources. The current Appropriation Act allows the council to expend all federal funds received for the purpose of operating the council. The receipt of federal funds is estimated at \$200,000 for fiscal years 1982 and 1983. The expenditure of general revenue is limited to \$20,000 for 1982 and \$30,000 for 1983. Should the council receive more than \$200,000 in federal funds in either year, the amount of general revenue authorized for expenditure is reduced accordingly.



## REVIEW OF OPERATIONS

The evaluation of the operations of the agency is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it is fairly reflective of the interests served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operation of specific agency programs.

### Policy-making Structure

In general, the structure of a policy-making body should have as basic statutory components, specifications regarding the composition of the body and the qualifications, method of selection, and grounds for removal of the members. These should provide executive and legislative control over the organization of the body and should ensure that the members are competent to perform required duties, that the composition represents a proper balance of interests impacted by the agency's activities, and that the viability of the body is maintained through an effective selection and removal process.

The Advisory Council for Technical-Vocational Education is composed of 25 members who are recommended by the governor and appointed by the State Board of Education with the advice and consent of the senate. Council members serve staggered three-year terms with the terms of eight or nine members expiring February 1st of each year. There are no specific qualifications for membership other than the 20 categories designated by the federal government and five designated by the state. The governor must ensure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the state. The majority of council members must be non-educators.

As stated above, council members currently serve staggered three-year terms. This creates a conflict between the Texas Constitution and the federal law. Both federal and state statutes presently require that council members serve three-year terms. The State Constitution (Article XVI, Sec. 30a) requires that the boards of state agencies be composed of members serving two-year terms or six-year terms, with one-third of the membership appointed or elected every two

years. This conflict should be resolved to avoid loss of federal funds which could occur should the constitutionality of the agency be questioned. It is recommended that the agency work through the appropriate federal officials to determine the proper course of action - whether an exemption from three-year terms can be obtained from the federal government so that the council's statute can be amended to conform with the State Constitution, or whether there is a possibility for changing the federal law.

The size of the 25-member council also would be in conflict with constitutional provisions requiring that one-third of a board's membership must be replaced at one time. Since 25 is not evenly divisible by three, modifications to the size of the council should be made. It does not appear to be cost effective or necessary to further increase the size of an already large membership. The average cost for the last four fiscal years per council member for council-related travel per year approximates \$620. Further, the composition of the council appears to cover the major categories of persons with knowledge and expertise in the area of technical-vocational education. It does appear possible, however, to reduce the size of the council to 21, maintain representation of all current categories of membership and reduce the cost of council travel by some \$2,480 per year.

The state has imposed five categories of membership in addition to the 20 categories established by federal law. The state's additions include: 1) one familiar with technical-vocational teacher training programs in post secondary institutions; 2) one familiar with post secondary baccalaureate technological degree programs; 3) one representing proprietary vocational-technical schools; 4) one who is receiving or has received basic adult education services during the three years prior to appointment; and 5) one representing the general public (this is part of a federal category, the remainder of which reads "including a person or persons representing and knowledgeable about the poor and disadvantaged."). It appears that the first four areas could be already found in, or merged with, existing federal categories. For example, the two state categories for post secondary institutions/programs can be merged within the federal categories for representation from "community and junior colleges", or representation from "other institutions of higher education, area vocational schools, technical institutes, and post secondary agencies or institutions which provide programs of vocational or technical education and training." The "proprietary schools" state category can be represented in the federal category of "have special knowledge, experience, or qualifications with

respect to vocational education but are not involved in the administration of state or local education programs" or "represent, and are familiar with, the vocational needs and problems of management in the state".

The review indicated that an additional category should be added to round out the representation on the council of those who impact the effectiveness of technical-vocational education. Interviews with council and TEA staff revealed that oftentimes a problem in encouraging students to enter technical-vocational education relates to a reluctance on the part of parents to consider vocational rather than academic education for their children. It is felt that having a parent representative on the council who is a member of a major parent organization, would be useful.

To reach the total of the 21 council members needed to meet constitutional requirements, one public member should be added. This additional member will bring to two the number of public members and would appropriately broaden the base of public input into state agency operations.

### **Overall Administration**

The review indicated that the administration of the agency is generally adequate. The agency keeps a daily update of travel funds where the cost of each trip made by both council members and staff is deducted as travel vouchers are prepared. This gives a daily "available total" of travel funds so that accurate advance planning for further travel occurs. The agency is concerned with, and carries out, an effective utilization of resources - both staff time and funds. Requests for staff technical assistance in the field are measured against available funds and the agency's program of work before approval is granted, thus keeping the agency's priorities in proper perspective. In order that job responsibilities are clearly delineated and the entire staff understands each other's primary and secondary responsibilities, a chart has been prepared detailing all of the activities and functions of the agency.

Although many areas of agency management are conducted efficiently, three areas of concern were encountered regarding the agency's overall administration. These relate to: 1) the funding relationship with the Texas Education Agency (TEA); 2) an unnecessary reporting requirement in the agency's statute; and 3) an outdated statutory requirement for rules development.

Currently, TEA helps support the agency by acting as its fiscal agent and by providing office space as required by statute. An interagency contract has been developed between the two agencies for "all services necessary to act as fiscal agent... including but not limited to payroll and accounting functions." The contract is for an amount computed annually, estimated as a percentage of time spent by one accountant based upon his monthly salary and fringe benefits. For fiscal year 1982, the contract amount is \$15,000.

The office space required by statute to be provided by TEA (Sec. 31.11, Tex. Ed. Code) has been defined to include rent, utilities, telephone, printing, postage, and office supplies. The agency currently occupies office space in South Austin separate from any other space rented or used by TEA. Until September 1981, no detailed accounting procedure for identifying these costs had been established. Current estimates indicate these services cost approximately \$50,000-\$60,000 per year, excluding the contract cost. This system causes two problems: 1) the legislature is not fully aware of the state's contribution toward the operation of the agency; and 2) this support by TEA (approximately 24 percent of the agency's operating cost for fiscal year 1981) appears to frustrate the federal intent that the agency maintain independence from the educational agency it is designed to evaluate. For these reasons, it is recommended that the agency's statute be amended to remove the provisions that TEA provide office space for the agency. Instead, an appropriation should be made directly to the agency to cover the operation costs currently paid by TEA. This will allow the agency to be fully accountable to the legislature, as are other state agencies. The funding shift should be accomplished by appropriating funds now expended by TEA directly to the agency. Since the agency is already physically separate from TEA, there should be no start-up expenses associated with this shift of funding and accountability. In conjunction with this change, the statute should be amended to allow the agency to conduct these activities themselves, or to contract for them through another entity.

A second area of concern identified relates to a section of the statute (Sec. 31.18, Tex. Ed. Code) which directs the agency to adopt procedural rules and grant educational institutions hearings. Over the years, the agency has not perceived any need to develop rules and has had no requests for hearings for educational institutions. Generally, agencies are not required to adopt procedural rules unless they conduct recognized formal activities such as administrative or disciplinary

hearings. Since this agency does not conduct such proceedings, this section places an unusual requirement on the agency to develop rules just for the sake of developing rules. It appears the section is unnecessary, and it is recommended that it be removed. The only agency procedure which approaches formality is the requirement that it actively participates in the formulation of the State Board of Education's five-year vocational education state plan, annual program plan, and accountability report. It is recommended that the agency consult with the Office of the Attorney General to determine if this procedure should be developed and published as a formal procedural rule, as provided for by the Administrative Procedures Act (Sec. 4(a)(1), Art. 6252-13a, V.A.C.S.).

The third area of concern is the annual report prepared for the Office of the Governor, required in Sec. 31.34(b), Tex. Ed. Code. The sunset self-evaluation report completed by the agency indicates this annual report has little usefulness but costs some \$4,000 to produce. The agency indicates that a biennial report, issued jointly to the governor and the legislature, would be more useful and could combine the information in the governor's report with the information in the report to the legislature, also required by statute. The annual report to the governor has been used through the years to report on findings from the public hearings held by the agency. The biennial report to the legislature provides information on the activities of the agency as well as its recommendations to the State Board of Education. It is recommended that the statute be amended to require only a joint biennial report to the governor and the legislature on the activities and recommendations of the agency.

### **Evaluation of Programs**

The substantive operations of the council can be separated into three basic activities: 1) planning, evaluation, and advice -- this includes working with the State Board of Education, the legislature, and other state agencies and institutions as mandated by state statute; 2) report development -- reports are available to any interested parties and are statutorily prepared for distribution to the state board, the governor, the legislature, and the federal government; and 3) technical assistance -- this is mandated by both federal and state statutes to be provided to local advisory councils.

Each of these three activities has been evaluated and found to be conducted in a generally effective manner. The reports and brochures prepared by the council

receive a wide distribution throughout the state. Reports/brochures are also developed to be used by the agency in conjunction with slide/tape presentations used in conducting technical assistance activities for local advisory councils. Technical assistance programs have been prepared, and presented through TEA inservice training sessions, to some 950 school districts in the state. Agency staff indicate no backlog of technical assistance requests currently exists.

In dealing with the planning, evaluation, and advice activity, the agency has sufficiently reviewed its many mandates and has initiated work in the required areas. The development of an "Annual Program of Work" allows the council to review past efforts and plan the work required to accomplish current or future projects. One area of concern, however, has been encountered in the council's advisory function to the state board.

In reviewing state board reaction to the council's recommendations forwarded during 1970-81, some 38 percent have either been returned, rejected or remain in the category of "action uncertain." This rate of "inaction" indicates a reluctance on the state board's part to use a significant portion of the work and advice of the agency. Interviews with TEA staff tend to confirm the perception that many of the agency's activities and recommendations are useful and to the point, but other efforts appear to be of little value in planning for future technical-vocational programs. For example, in fiscal year 1981, the agency made five recommendations in the area of "curriculum emphasis." All of the recommendations related to strengthening the process used to develop instructional materials which emphasize productivity, private enterprise and entrepreneurship. In response to the recommendations, the state board reported that four of the five improvements suggested by the agency were, in their opinion, already addressed through current and ongoing education agency activities. Although the agency can legitimately emphasize areas where improvements in current programs are needed, it does appear that its efforts should maximize its resources in addressing areas of developing and future importance in the field of technical-vocational education. The determination of areas to be evaluated and studied should rest with the agency to maintain the integrity of its evaluations. However, one important aspect of this determination should be the receipt and consideration of the perspectives of others involved in the entire operation of technical-vocational programs in the state. These perspectives come from students, teachers, industry representatives, TEA staff and from the ultimate decision makers, the State Board of Education. Review of the

current situation indicates that the council does receive input from all of these groups. The agency's conduct of public hearings, surveys, and interviews does elicit the viewpoints of those involved in the delivery of technical-vocational education. It appears, though, that the state board's participation occurs late in the evaluation process and is in reaction to a year's work already completed. Since 1977, the agency and state board representatives have met two to four times a year, on request of the agency, in an informal "Task Force" to discuss a specified topic or topics. This forum could serve to include the board in the agency work process, but the discussions come too late to have any real impact. The process could be improved if the statute were amended to require the state board to develop a list of issues and areas of evaluation early in the year for council consideration.



**OTHER SUNSET CRITERIA**

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

These analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
3. Has the agency and its officers complied with the regulations regarding conflict of interest?
4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?

## EVALUATION OF OTHER SUNSET CRITERIA

The material presented in this section evaluates the agency's efforts to comply with the general state policies developed to ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

### Open Meetings/Open Records

Review of the agency's compliance with the Open Meetings Act indicates that the agency has made timely filings with the secretary of state's Texas register division providing appropriate notice of its meetings. No problems were encountered during the review concerning its meetings and the agency appears to be in overall compliance. Review of the agency's compliance with the Open Records Act indicates that the agency has never had a formal request for information and appropriately considers information it maintains as open and available to the public.

### EEOC/Privacy

The review of the agency's operations in the area of equal employment indicates that the agency has developed its own affirmative action plan. The agency has experienced minimal turnover in its 13 years of operation and has had no formal grievances filed against it. Although the agency has no formal procedures developed concerning the rights and privacy of its employees, no problems in this area were encountered during the review.

### Public Participation

In general, the review of public participation consists of an evaluation of the extent to which persons served by the program and the general public have been kept informed of program activities and the extent to which the agency is responsive to changing demands and needs of the public. The results of the review indicated that adequate efforts have been made in this area. The agency has a unique statutory requirement to hold "not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the state" (P.L. 94-482). The agency has complied with this provision and the results appear beneficial. The opinions and insights gained

through such public participation have formed the basis for recommendations to the State Board of Education from the agency, and eventually, state law. The annual meetings are held at the determination of the agency in local, regional, or statewide settings and involve multiple types of interested groups. Follow-up reports to these conferences reveal that the audience is composed of about 60 percent educators and 40 percent non-educators or industry representatives. This allows the agency or its staff to receive input from those actually involved in the operation of vocational programs.

A review of hearing agendas and discussions with agency staff indicates the hearings are structured to provide for formal presentations of information by invited speakers, as well as the opportunity for dialogue between the participants in "workshop" or "seminar" settings. This allows for two-way communication to occur to promote understanding of needs and problems in the vocational field.

An unsolved problem with the hearing process, however, is that two groups, parents and students, do not attend these meetings in meaningful numbers. For example, only two of 602 participants in the 1980 statewide conference were students and a maximum of 14 were parents not involved in industry or a facet of technical-vocational education. It appears the agency should place increased emphasis on notification and involvement of these two groups since the students are actually enrolled in vocational-technical courses and parents have considerable influence on the courses which the student may take or in the student's selection of a career field.

It is recommended that the agency devise more effective ways of contacting and notifying students and parents of public hearings so that their input is gained in planning for technical-vocational education needs.

### **Conflicts of Interest**

A review of the council's member's compliance with statutory standards of conduct and conflict-of-interest provisions showed overall compliance with the requirements. The agency makes reasonable efforts to inform the council members and its employees of their responsibilities, and contacts with the Office of the Secretary of State reveal that those person's required to file financial or regulated interest forms have done so. One concern has been encountered, however, in the general area of conflict of interest regarding the relationship of the agency to a private non-profit foundation. This foundation was initiated by the Industry/Educa-

tion Committee of the agency and was incorporated in November of 1980. Discussions with agency staff and review of agency minutes indicate that the staff of the agency have contributed portions of their time toward the development of the foundation and one staff member serves as the foundation's "secretary." Duties performed include taking of minutes, maintaining a mailing list and lists of contributors, and general accounting functions for the foundation. Other foundation work done by agency staff includes the presentation of foundation objectives and fund-raising activities to groups spoken to during the course of the staff's public speaking engagements.

Initial concern with this arrangement was based on the constitutional prohibitions regarding the use of public money for a private purpose without any clear contractual basis stating the purposes and terms of the arrangement.

In a recent meeting, the agency adopted a resolution detailing what services the agency would provide the foundation and, in turn, what benefits the agency would receive in return. An analysis of the terms of the agreement indicates that a public purpose is being served through the arrangement.



**NEED TO CONTINUE AGENCY FUNCTIONS**

**AND**

**ALTERNATIVES**

The analysis of the need to continue the functions of the agency and whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of need is directed toward the answers to the following questions:

1. Do the conditions which required state action still exist and are they serious enough to call for continued action on the part of the state?
2. Is the current organizational structure the only way to perform the functions?

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
2. Are there other practical organizational approaches available through consolidation or reorganization?

## NEED

The analysis of need and alternatives is divided into: 1) a general discussion of whether there is a continuing need for the functions performed and the organizational setting used to perform the function; and 2) specific discussion of practical alternatives to the present method of performing the function or the present organizational structure.

### Functions

In determining whether or not there is a continuing need for the functions provided by the Advisory Council on Technical-Vocational Education, the requirements of federal law for the council and the need for the functions, federal requirements notwithstanding, were reviewed.

Currently, federal law (P.L. 94-482, as amended) requires that "any state which desires to participate in programs under this chapter [Vocational Education] ...shall establish a state advisory council..." The agency's existence authorizes the state to receive federal vocational education dollars which approximate \$42 million for fiscal year 1982. It appears that this mechanism for funding, tied to the agency's existence, is sufficient to warrant continuation.

Consideration has also been given to the need for the function of the agency, regardless of federal funds or requirements. The purpose of the agency is to provide advice to the State Board of Education on the needs of the field of technical-vocational education in the state. The review indicates that this advisory function is needed based on several factors.

First, the state has a considerable investment in technical-vocational programs. During fiscal year 1981, Texas received nearly \$350 million for these programs which served almost 900,000 persons.

Second, the current situation regarding the needs for skilled workers in the labor market appears to indicate there is a shortage of these workers and continuing need for their training. The council reports that Texas is currently under-producing by as much as 30 percent per year in the number of technical-vocational workers needed by business and industry. Other indicators are found in the rapid expansion of industries related to technical-vocational program areas. The State Comptroller reports in his "Fiscal Notes" (April 1982) that sales by high technology industries (computer, radio-television, and optics) grew from \$2.4

billion in 1975 to \$5.3 billion in 1980, with an annual growth rate of 17.6 percent. These factors indicate a continuing need for current and possibly new types of technical-vocational training with a concomitant need for specific planning on how best to modify or develop new programs to meet expanding or shifting skilled labor shortages. Advisory bodies have routinely been used by state agencies to provide insights in this type of situation.

The State Board of Education currently has 24 advisory councils or committees providing assistance to the board. These committees deal with issues such as special education, migrant education, fine arts, gifted and talented education. Given the size, complexity and growth in technical-vocational education, it appears that an advisory body assisting the board in this area is warranted.

In light of the factors discussed above, it appears that an advisory body with specific expertise in the area of technical-vocational education is needed. A mixture of industrial and educational perspectives appears useful in the makeup of such a body which can provide advice to the state board on areas of need in the technical-vocational programs of the state.

### **Agency**

In determining whether it is necessary for the agency to have an organizational structure independent of the State Board of Education rather than merging the agency's staffing and expenditures into the existing TEA departmental framework, the review indicated that the agency's present structure is necessary to continue the flow of federal vocational funds and to carry out original federal intent.

Currently, all 50 states and seven territories have a state advisory council for vocational education. Among these 57 entities, the average number of council members is 25.85 (Texas has 25), the average number of committees is 4.6 (Texas has four), the average amount of federal funds received for support is \$115,005 (Texas receives a maximum of \$200,000), the average number of professional staff is 1.74 (Texas has three), and the average number of clerical staff is 1.26 (Texas has two).

Although the size, budget, and structure of the councils differ according to the size of the state and the particular constraints present in each situation, they are all mandated by federal law. As was intended by the federal statute, each provides advice from an independent perspective about the needs for vocational

education programs in that state. This input is reflected in the state's 5-year vocational education state plan, annual program plan, and accountability report, as required to continue the flow of federal vocational funds to the state.

One state, Hawaii, has combined all of its state employment and training advisory activities with its advisory council establishing one agency which operates as one unified Commission on Manpower and Full Employment. During the review, consideration was given to the possibility of merging the Texas State Employment Training Council (SETC) with the Advisory Council for Technical-Vocational Education (ACTVE). However, since the SETC is funded through the Office of the Governor, by CETA funds, advice would have to go back to the governor and then to the state board, thus losing much of its impact. A second consideration was the fact that federal CETA legislation is currently being reviewed with a strong possibility existing that the program will be discontinued or drastically altered at the federal level, thereby making any consolidation efforts in this area premature.

Because federal vocational funds continue to be available to Texas at the present (approximately \$42 million in fiscal year 1982), and since the agency is necessary for those funds to continue to flow, it was concluded that the current structure of the advisory council is the most logical one available to the state for the provision of advice about technical-vocational needs. Should the federal mandate cease, an alternative for the operation of the council and the provision of its advice is discussed in the material which follows.



## ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

### Agency Reorganization

The review of the Advisory Council for Technical-Vocational Education indicates that federal law requires its existence as an "independent" body for the state to continue to receive federal funds for vocational education (approximately \$42 million in fiscal year 1982). A review was made of the law and the congressional intent expressed at the time of the creation of the state councils. Federal law provides that "each state advisory council is authorized to obtain services of such...personnel...as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies and individuals" (Sec. 2305(e), P. L. 94-482). Review of congressional records developed during the passage of the act establishing the councils also reveal a strong indication that each council sit independently of the state board of (vocational) education it is evaluating. The committee report explaining P. L. 94-482 states, "These councils are intended to be an independent voice in vocational education, not a mere extension of the program's administrators." Based on these factors, it appears that merger of the council with another agency, thereby reducing its independence, would intolerably frustrate the federal intent that the council operate as a separate and independent agency.

In reviewing the possibility that federal funds and requirements in the area of vocational education might cease, no conclusion on the ultimate decisions can be made. The President's initial plan called for phasing out federal assistance in this area after 1987. No action has been taken to date on this proposal and it appears that the vocational education funding system may continue. In the event it does not, however, it does not appear that Texas needs to continue the operation of an independent advisory agency to assist the state board in its deliberation on technical-vocational matters.

Currently, 24 advisory committees assist the state board in specific areas of educational programming or interest. Only one, the Advisory Council on Technical-Vocational Education, exists as a separate agency with an independent staff. The apparent intent of federal legislation establishing the councils was to attempt to assure that the evaluators and advisors represented in the council were separate and apart from the state departments of education and therefore objective in reviewing the programming needs of technical-vocational education. To follow this

intent and maintain the flow of federal vocational dollars to the state, the ACTIVE does sit as an independent agency. It appears, however, that without federal requirements, the council could function like all other advisory committees to the state board. Sufficient independence for its work can be ensured through a requirement that it report through the commissioner of TEA, rather than a division head, to the state board. Staff assistance can be provided by one of the education agency divisions and the proper blend of industrial and educational expertise on the body can be assured by a requirement that the state board appoint a committee made up of a balance of these interests. Benefits derived from this alternative include diminished state expenditures in the development and provision of advice to the state board in an area of particular complexity and importance to the state.

#### **Change in Method of Service Delivery**

The single purpose of the agency is to provide advice to the state board concerning the needs in the field of technical-vocational education in the state. In reviewing the state statute developed to meet federal requirements for an advisory council, it appears that the state legislation goes far beyond the basic language and direction established for the councils in federal law. Federal law (P. L. 94-482) requires the council to: 1) advise the state board on the development of state plans related to vocational education; 2) evaluate vocational education programs; and 3) report its findings to the National Advisory Council on Vocational Education with the comments of the state board. The state statute incorporates these elements as well as many other duties of the council.

For example, the council's purpose is expressed in the state statute to be "to cause to be established a climate conducive...to meet the needs of industrial and economic development of the state." Such language allows the agency to deviate from an intended direction in determining needs and priorities for transmittal to the board and its national counterpart. The state statute also lists 17 "duties" which direct evaluation in highly specific areas. These duties, most of which were included in the original legislation or added by 1977, address apparently specific problems which existed at that time. The review indicated that 2/3 of these duties had not had any action within the last two years and most of them had no action taken for the past five years.

Of the other duties which had more current action taken, two of these are federal requirements which must be met. It appears that intervening time has

resolved the problems present when the state statute was created, therefore, it is inappropriate for the council to be mandated to keep addressing the same problems continuously. The council should be allowed the flexibility to meet current needs rather than being tied to evaluating outdated or already corrected situations. Any need for ongoing action in any of these areas could be addressed by the legislature as projects for the council through resolutions or other such means, rather than being included in the council's statute.

It appears that modifying state statute to closely conform with existing federal mandates should give sufficient latitude for the activities of the council and would enhance the federal intent originally included in the Vocational Education Amendments of 1968.



**ACROSS-THE-BOARD RECOMMENDATIONS**



**ADVISORY COUNCIL ON TECHNICAL-VOCATIONAL EDUCATION**

Applied	Modified	Not Applied	Across-the-Board Recommendations
<b>A. ADMINISTRATION</b>			
		*	1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. A person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
		X	4. Appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
		X	5. Per diem to be set by legislative appropriation.
X			6. Specification of grounds for removal of a board member.
X			7. Board members shall attend at least one-half of the agency board meetings or it may be grounds for removal from the board.
X			8. The agency shall comply with the Open Meetings Act, and the Administrative Procedure and Texas Register Act.
		X	9. Review of rules by appropriate standing committees.
X			10. The board shall make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			11. Require the board to establish skill oriented career ladders.
X			12. Require a system of merit pay based on documented employee performance.
X			13. The state auditor shall audit the financial transactions of the board during each fiscal period.
X			14. Provide for notification and information to the public concerning board activities.
		*	15. Require the legislative review of agency expenditures through the appropriation process.

\*Already in statute or required.

**Advisory Council on Technical-Vocational Education**  
(Continued)

Applied	Modified	Not Applied	Across-the-Board Recommendations
			<b>B. LICENSING</b>
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. A person taking an examination shall be notified of the results of the examination within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
		X	5. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	6. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	7. Authorize the staggered renewal of licenses.
			<b>C. ENFORCEMENT</b>
		X	1. Authorize agencies to use a full range of penalties.
	X		2. Require files to be maintained on complaints.
	X		3. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	4. Specification of board hearing requirements.
			<b>D. PRACTICE</b>
		X	1. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	2. The board shall adopt a system of voluntary continuing education.