

SUNSET ADVISORY COMMISSION

Summary of Sunset Legislation 80th Legislature

July 2007



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

SUMMARY OF SUNSET LEGISLATION
80TH LEGISLATURE

SUNSET ADVISORY COMMISSION

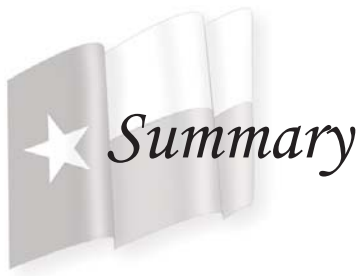
2007



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SUMMARY



Based on recommendations from the Sunset Advisory Commission, the 80th Legislature passed legislation affecting 19 state agencies and boards under Sunset review. The Legislature adopted the majority of changes recommended by the Sunset Commission and added a number of improvements to the bills. These bills will result in more than \$447,000 in savings and revenue gains over the next two years by streamlining agency processes and eliminating waste, duplication, and inefficiency in state government. Also, several of the bills contain changes that go beyond Sunset’s traditional role of eliminating duplication and waste, reflecting larger policy issues that both the Commission and the Legislature considered to improve services to the citizens of Texas. This report summarizes the results of the 80th Legislature to modify and improve the Sunset bills.



As a result of the Sunset process, the Legislature enacted significant policy changes to improve services to the citizens of Texas.

Of the entities under Sunset review, the Texas Historical Representation Advisory Committee expired without legislative action due to its inactive status. The Legislature abolished the Texas Structural Pest Control Board, transferring the agency’s functions to the Texas Department of Agriculture. Three agencies under Sunset review were not subject to abolishment, but the Legislature made several changes to improve the operations of the Board of Pardons and Paroles, State Board of Trustees of the Teacher Retirement System of Texas, and Veterans’ Land Board. The Legislature removed the Texas Veterinary Medical Diagnostic Laboratory from further Sunset review, and also removed the Correctional Managed Health Care Committee’s separate Sunset date, allowing future review of its role and responsibilities to occur at the same time as the Texas Department of Criminal Justice’s Sunset review. The Legislature continued 12 other agencies, many with significant changes, and directed the Sunset Commission to continue evaluation of the Office of State-Federal Relations, by extending the agency’s Sunset date for only two years.

Several key provisions of the Sunset bills are highlighted below, and the fiscal impact of each Sunset bill is summarized in the following table.

- ◆ Abolish the Structural Pest Control Board and transfer its functions to the Texas Department of Agriculture. Establish an advisory committee, with members appointed by the Agriculture Commissioner, to advise the Department on structural pest control issues. Allow the Department of Agriculture to determine its inspection frequency based on an assessment of risk. Improve the Integrated Pest Management Program to provide more clear and consistent guidance to schools.
- ◆ Continue the Texas Department of Criminal Justice (TDCJ) for four years. Establish a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies. Authorize judges to permit the

early medical release of state jail confinees who pose no risk to public safety due to their medical conditions. Require TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders early from parole and mandatory supervision. Require the Board of Pardons and Paroles to annually review and update its parole guidelines, and report and explain to the Legislature its efforts to meet them.

- ◆ Continue the Office of Rural Community Affairs (ORCA) for six years with a refocused mission and new leadership to better serve rural Texas. Evaluate Texas' rural Community Development Block Grant program. Improve ORCA's coordination with the Texas Department of Agriculture.
- ◆ Streamline the Nurse Board's process for approving nursing education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nursing education. Encourage an innovative approach by the Board for dealing with the nursing shortage. Adopt the Advanced Practice Registered Nurse Multistate Compact to make it easier for nurses to work in Texas.
- ◆ Clarify the Texas Animal Health Commission's role in preparing for and responding to natural or man-made emergencies, including a study of the State's capacity to perform disease testing during emergencies. Clarify the Commission's authority to address diseases in other species that threaten livestock and fowl. Clarify the Commission's authority to register feral swine holding facilities and regulate movement of feral swine for disease-control purposes.

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

The 80th Legislature also passed H.B. 3249 and other legislation that affect the Sunset review schedule for the next interim, the 2009 review cycle. The Sunset Commission must review and make recommendations on 26 agencies and programs during the next 15 months. Major reviews for the upcoming 2009 cycle include the Texas Department of Insurance, Texas Parks and Wildlife Department, Texas Department of Public Safety, Texas Department of Transportation, and the Texas Youth Commission. Several agencies, most notably the Health and Human Services Commission and the Department of State Health Services, were moved to later review cycles. The appendix to this report provides a complete list of the 2009 review schedule.

80th Session Sunset Summary Information

Agency	Action	Two-Year Net Fiscal Impact	Bill Author		Bill Number
			Senate	House	
Alcoholic Beverage Commission, Texas	Continued	No Impact	Brimer	Truitt	S.B. 904
Animal Health Commission, Texas	Continued	No Impact	Ellis	Kolkhorst	H.B. 2543
Arts, Texas Commission on the	Continued	No Impact	Deuell	Flynn	H.B. 2460
Criminal Justice, Texas Department of	Continued	No Impact	Whitmire	Madden	S.B. 909
Correctional Managed Health Care Committee	Sunset Date Removed	No Impact	Whitmire	Madden	S.B. 909
Higher Education Tuition Board, Prepaid	Continued	No Impact	Brimer	Cook, B.	H.B. 2173
Historical Representation Advisory Committee	Abolished	No Impact	No Legislation		
Historical Commission, Texas	Continued	No Impact	Estes	Hilderbran	H.B. 12
Library and Archives Commission, Texas State	Continued	No Impact	Brimer	McClendon	S.B. 913
Nurse Examiners, Board of	Continued	No Impact	Deuell	Truitt	H.B. 2426
Pardons and Paroles, Board of	Not Subject to Abolishment	No Impact	Whitmire	Madden	S.B. 909
Real Estate Commission, Texas	Continued	\$247,920	Shapleigh	Truitt	S.B. 914
Risk Management, State Office of	Continued	No Impact	Brimer	McClendon	S.B. 908
Rural Community Affairs, Office of	Continued	No Impact	Estes	Kolkhorst	H.B. 2542
State-Federal Relations, Office of ¹	Continued	No Impact	Brimer	Kolkhorst	S.B. 903
Structural Pest Control Board, Texas	Abolished / Transferred	No Impact	Brimer	Cook, B.	H.B. 2458
Teacher Retirement System of Texas	Not Subject to Abolishment	\$200,000	Whitmire	Truitt	H.B. 2427
Veterans Commission, Texas	Continued	No Impact	Shapleigh	Flynn	H.B. 3426
Veterans' Land Board	Not Subject to Abolishment	No Impact	Shapleigh	Flynn	H.B. 3140
Veterinary Medical Diagnostic Laboratory, Texas	Sunset Date Removed	No Impact	Estes	Kolkhorst	H.B. 2024
Fiscal Impact Total		\$447,920			

¹ The Office of State-Federal Relations was continued for two years in H.B. 3249 and will be reviewed again in the 2008-2009 biennium.

AGENCIES



Texas Alcoholic Beverage Commission

Staff Contact: Karen Latta

S.B. 904 Brimer (Truitt)

Summary

The Texas Alcoholic Beverage Commission (TABC) regulates all phases of the alcoholic beverage industry. The Legislature created the agency in 1935 in response to the repeal of Prohibition. The agency has four primary functions: licensing alcoholic beverage manufacturers, wholesalers, and retailers; enforcing administrative and criminal laws in the Alcoholic Beverage Code; collecting taxes on alcoholic beverages; and providing educational programs to address issues such as underage drinking. TABC operates with an annual budget of \$38.2 million, and a staff of 686, including 300 commissioned law enforcement officers.

Senate Bill 904 continues TABC for 12 years. The bill also contains the Sunset Commission's recommendations to update the agency's mission, improve its enforcement efforts, and modernize other functions of the agency. The list below summarizes the major provisions of S.B. 904, and a more detailed discussion follows.

Sunset Provisions

1. Update TABC's mission to better reflect the agency's role in protecting public safety and regulating the modern alcoholic beverage industry.
2. Ensure TABC's enforcement efforts are fair, consistent, and focused on public safety.
3. Reduce TABC's regulation of certain business practices that duplicate federal requirements, impose unnecessary costs and delays on the industry, and create excessive burdens for the agency.
4. Require TABC to develop a formal process for making and communicating policy decisions regarding marketing practices regulations.
5. Require the agency to create a more formal and consistent approach to investigating and resolving complaints against its employees.
6. Ensure licensees have access to online license application, renewal, and fee payment.
7. Require establishments that serve alcohol to post signs warning the public of the risks of drinking alcohol during pregnancy.
8. Expand TABC's authority to take enforcement action against establishments that sell or serve alcohol during prohibited hours.
9. Continue the Texas Alcoholic Beverage Commission for 12 years.

Sunset Provisions

1. Update TABC's mission to better reflect the agency's role in protecting public safety and regulating the modern alcoholic beverage industry.

Senate Bill 904 defines the agency's mission by updating the existing statutory language to focus the agency on:

- ◆ protecting the public safety by deterring and detecting violations of the law;
- ◆ promoting legal and responsible alcohol consumption;
- ◆ ensuring fair competition within the alcoholic beverage industry;
- ◆ ensuring consistent, predictable, and timely enforcement of the law;
- ◆ ensuring a consistent, predictable, and timely licensing process;
- ◆ promoting and fostering voluntary compliance with the law; and
- ◆ communicating the requirements of the law clearly and consistently.

2. Ensure TABC's enforcement efforts are fair, consistent, and focused on public safety.

The bill requires TABC to replace its existing penalty chart with one that reflects its full penalty authority and provides more complete guidance to ensure fair and consistent application of penalties. The agency's schedule of sanctions must include both the number of days of suspension for a particular violation and the corresponding fine amount, among other requirements.

Senate Bill 904 requires TABC to develop a risk-based approach to conducting its enforcement activities by focusing on detecting serious violations with an impact on public safety, and more closely monitoring businesses with a history of complaints and violations. TABC must develop benchmarks and goals to track key enforcement activities and their results. TABC must also track and analyze the nature of violations detected, their disposition, and the businesses that produce the most serious violations, statewide and per region.

The bill also requires TABC to adopt rules that clearly define the agency's complaint process from receipt to disposition. The bill directs the agency to place complaints in priority order and handle the most serious problems first. TABC must compile detailed statistics and analyze trends on complaint information to get a clearer picture of problems people have with its licensees.

3. Reduce TABC's regulation of certain business practices that duplicate federal requirements, impose unnecessary costs and delays on the industry, and create excessive burdens for the agency.

Senate Bill 904 eliminates label approval and testing for liquor and wine. Instead, the bill authorizes the agency to implement a label registration program to accept federal Certificates of Label Approval for liquor and wine. Once TABC registers a federal certificate, the manufacturer will be in full compliance with agency standards.

The bill also eliminates the requirement that the agency perform chemical analyses of all new beer products. Instead, beer manufacturers will have the option of submitting to TABC analyses from independent, reputable laboratories indicating the alcohol content of their products. If a manufacturer chooses not to submit an independent lab analysis, TABC will test its product.

Senate Bill 904 eliminates fees set in statute for the approval of new alcoholic beverage products, and instead allows TABC to set fees in rule to cover the cost of these activities. The bill also allows distributors to report retailers who are delinquent in making payments for liquor and wine by electronic mail or other means authorized by the agency.

4. Require TABC to develop a formal process for making and communicating policy decisions regarding marketing practices regulations.

As part of this formal process, S.B. 904 requires TABC staff to meet with a cross section of industry members to discuss regulatory issues and gather input for the drafting of marketing practices policies. The agency must document its decisions by using a precedents manual or drafting formal advisories. The agency must then make these documents available to regional staff, as well as to industry members, through the agency's website, electronic mail, and agency publications.

5. Require the agency to create a more formal and consistent approach to investigating and resolving complaints against its employees.

Senate Bill 904 requires TABC to maintain an internal affairs function to ensure fair, effective, and impartial investigations of alleged misconduct by its law enforcement officers and other employees. The Commission, by rule, must outline general guidelines to inform the public of how to file a complaint and what steps the agency will take to address that complaint. The agency's Administrator must appoint and directly oversee the head of internal affairs. The bill also requires the internal affairs staff to report monthly to the Administrator and quarterly to the Alcoholic Beverage Commission on information relating to complaint investigations.

6. Ensure licensees have access to online license application, renewal, and fee payment.

The bill directs TABC to provide for online license application, renewal, and payment of fees. This provision will ensure that applicants have access to an automated system that reduces delays in the licensing process by making license applications available online. Licensees can use the automated system to renew their licenses, check the status of license applications and renewals, and pay licensing fees.

7. Require establishments that serve alcohol to post signs warning the public of the risks of drinking alcohol during pregnancy.

Senate Bill 904 requires TABC to adopt rules that require establishments selling alcohol for on-premise consumption, such as restaurants and bars, to post signs on men's and women's bathroom doors that remind the public of the health risks posed to unborn children when pregnant women drink alcohol.

8. Expand TABC’s authority to take enforcement action against establishments that sell or serve alcohol during prohibited hours.

Senate Bill 904 establishes specific criminal sanctions against licensees who violate after-hours laws or hinder TABC’s investigation of such violations. The following violations are Class A misdemeanors:

- ◆ selling or serving alcohol during prohibited hours;
- ◆ consuming or permitting consumption of alcohol on licensed premises during prohibited hours; and
- ◆ refusing to allow entry to inspectors and law enforcement personnel.

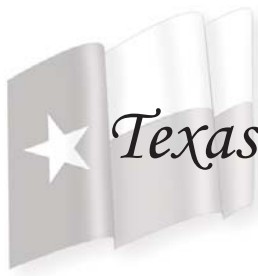
The bill allows TABC to take enforcement action against individuals who consume alcohol at establishments during prohibited hours by defining these locations as public places. Senate Bill 904 allows TABC to suspend a license, rather than offer the option of an administrative penalty, for licensees who commit after-hours violations. Under this provision, TABC, rather than the licensee, will have the option to decide whether an administrative penalty or suspension is appropriate in each case. The bill also requires TABC to report to the Legislature on its enforcement efforts concerning violations involving after-hours alcohol sales, service, and consumption.

9. Continue the Texas Alcoholic Beverage Commission for 12 years.

Senate Bill 904 continues TABC as an independent agency responsible for regulating the alcoholic beverage industry for 12 years.

Fiscal Implication Summary _____

Senate Bill 904 will not have a significant fiscal impact to the State.



Texas Animal Health Commission

Staff Contact: Sarah Kirkle

H.B. 2543 Kolkhorst (Ellis)

Summary

The Texas Animal Health Commission's (the Commission) mission is to prevent, control, and eradicate disease in Texas livestock and fowl. The Commission protects livestock and fowl from domestic, foreign, and emerging animal diseases; increases the marketability of Texas livestock commodities worldwide; promotes and ensures animal health and productivity; protects human health from animal diseases and conditions that are transmissible to people; and prepares for and responds to emergencies involving animals. The agency operated with a budget of about \$14.7 million in fiscal year 2006 and employs 192 staff.

House Bill 2543 continues the Texas Animal Health Commission and contains all of the Sunset Commission's recommendations to provide better tools, flexibility, and clear authority for the Commission to adapt to a changing animal health environment. The list below summarizes the major provisions of H.B. 2543, and a more detailed discussion follows.

Sunset Provisions

1. Clarify the Commission's role in preparing for and responding to natural or man-made emergencies, including a study of the State's capacity to perform disease testing during emergencies.
2. Clarify the Commission's authority to address diseases in other species that threaten livestock and fowl.
3. Clarify the Commission's authority to register feral swine holding facilities and regulate movement of feral swine for disease-control purposes.
4. Establish an agencywide compliance policy and improve public information regarding how to file a complaint with the Commission.
5. Continue the Texas Animal Health Commission for 12 years.

Provision Added by the Legislature

6. Provide public access to Commission meetings.

Sunset Provisions

1. Clarify the Commission's role in preparing for and responding to natural or man-made emergencies, including a study of the State's capacity to perform disease testing during emergencies.

The bill establishes emergency management as a vital responsibility of the Commission's mission in statute, thus allowing the Commission, as part of its routine activities, to perform emergency management duties currently not explicitly authorized in statute. The bill authorizes the Commission to prepare and plan for, respond to, and recover from disaster events, including disease outbreaks; hurricanes; floods; tornadoes; wildfires; and acts of terrorism affecting livestock, exotic livestock, domestic fowl, and exotic fowl.

In addition, the bill authorizes the Commission to issue a statewide or widespread quarantine on livestock, exotic livestock, domestic fowl, and exotic fowl as a means of quickly stopping the movement of animals potentially infected with disease.

House Bill 2543 also authorizes the Commission to determine and implement the most effective method for disposing of diseased livestock, exotic livestock, domestic fowl, and exotic fowl carcasses. The Legislature modified the bill to include a provision in the Water Code to clarify that diseased poultry carcass disposal, like other diseased carcass disposal, is governed by the Animal Health Commission's authority to dispose of diseased animal carcasses.

Finally, the Legislature modified H.B. 2543 to require the Commission, the Texas Veterinary Medical Diagnostic Laboratory, and the U.S. Department of Agriculture to conduct a study of the capability of the State's animal health laboratories to perform disease testing during an animal disease outbreak or emergency.

2. Clarify the Commission's authority to address diseases in other species that threaten livestock and fowl.

House Bill 2543 authorizes the Commission to protect livestock, exotic livestock, domestic fowl, and exotic fowl from disease, even if the disease threat comes from a species not under the Commission's authority. However, the Commission's authority regarding species other than livestock or fowl is limited only to instances when a disease has been confirmed, or is suspected to exist, in another species and the Commission determines that a threat to livestock, exotic livestock, domestic fowl, or exotic fowl exists. The bill does not authorize the Commission to infringe upon or supersede any other agency's authority, such as Texas Parks and Wildlife Department's authority to regulate wildlife.

3. Clarify the Commission's authority to register feral swine holding facilities and regulate movement of feral swine for disease-control purposes.

House Bill 2543 clarifies the Commission's existing authority to regulate the movement of animals to include movement of feral swine for disease-control purposes. The Commission must adopt rules relating to the movement of feral swine, including disease-testing requirements prior to movement from one location to another. The bill also grants the Commission specific statutory authority to require the registration of feral swine holding facilities for disease-control purposes.

The bill gives the Commission clear authority to take enforcement action against individuals who violate statutory provisions or Commission rules or orders related to feral swine. The bill does not authorize the Commission to interfere with any other agency's authority, such as Texas Parks and Wildlife Department's authority to regulate the hunting and trapping of feral swine.

4. Establish an agencywide compliance policy and improve public information regarding how to file a complaint with the Commission.

The bill requires the Commission to adopt an agencywide compliance policy and convey this policy to staff statewide. In addition, the Commission must develop clearly defined internal operating procedures regarding the Commission's approach to addressing compliance with state laws and Commission rules and post these procedures on the agency's intranet. The bill also requires the Commission to post information regarding complaints on the home page of its website.

5. Continue the Texas Animal Health Commission for 12 years.

House Bill 2543 continues the Commission as an independent agency for the standard 12-year period, until 2019.

Provision Added by the Legislature _____

6. Provide public access to Commission meetings.

The Legislature added a provision to the bill that requires the agency to hold its Commission meetings in locations that are accessible to the public, as well as to post its audio archives of Commission meetings on the agency's website.

Fiscal Implication Summary _____

House Bill 2543 contains one provision that will have a cost to the Commission. The Commission will need to seek outside expertise to conduct the joint study of the State's animal health lab capacity. However, the Legislature did not appropriate additional funding for this study, so the Commission must cover these costs with its current resources, at no additional cost to the State.



Texas Commission on the Arts

Staff Contact: Ginny McKay

H.B. 2460 Flynn, et al. (Deuell)

Summary

The Texas Commission on the Arts (TCA) helps develop a receptive climate for the arts through the support and development of arts and cultural industries in Texas. Created in 1965, the agency's current functions include providing grants to nonprofit arts, educational, and governmental organizations; promoting arts and cultural events to increase participation in the arts and encourage tourism; and marketing and raising funds to support the agency's programs. The agency operates with an annual budget of about \$5 million and a staff of 19.

House Bill 2460 continues TCA for six years and contains the Sunset Commission's recommendations to focus the next Sunset review on the agency's administrative and overhead expenditures. The bill ensures that TCA only accepts private funds that support the agency's statutory priorities and ensures accountability of the Executive Director's awarding of special initiative grants. The list below summarizes the major provisions of H.B. 2460, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Texas Commission on the Arts for six years.
2. Require the Commission to adopt rules governing the acceptance of private funds to ensure that the funds support the agency's key functions.
3. Require the Commission to adopt rules to ensure accountability of TCA's special initiative grants.

Sunset Provisions

1. Continue the Texas Commission on the Arts for six years.

The Legislature modified H.B. 2460 to continue TCA for six years, rather than for two years as recommended by the Sunset Commission. The bill also requires Sunset staff, prior to the 83rd Legislative Session in 2013, to focus its review on TCA's overall expenditures, including overhead and administrative costs.

2. Require the Commission to adopt rules governing the acceptance of private funds to ensure that the funds support the agency's key functions.

The bill requires TCA to adopt rules that require staff to fully evaluate any gift, grant, or donation to determine if its purpose supports the agency's priorities as set by the Legislature. TCA must also evaluate what obligations the agency must meet to accept a donation, including matching funds, staff time and effort, and any other additional costs.

3. Require the Commission to adopt rules to ensure accountability of TCA's special initiative grants.

House Bill 2460 ensures greater accountability of TCA's special initiative grants by requiring the Commission to develop rules governing the review, approval, and oversight of these grants. The rules must clearly address Commission approval of special initiative grants, with expedited approval of grants in limited circumstances requiring immediate action. The rules must also address procedures for determining the amounts of special initiative grants, and criteria used to review and evaluate the grant applications.

Fiscal Implication Summary

House Bill 2460 will not have a significant fiscal impact to the State.



Criminal Justice Agencies

Texas Department of Criminal Justice

Board of Pardons and Paroles

Correctional Managed Health Care Committee

Staff Contact: Jennifer Jones

S.B. 909 Whitmire (Madden, et al.)

Summary

In 1846, the Texas Legislature provided funding for the first Texas prison. Since that time the state criminal justice system has expanded to include probation, parole, and offender rehabilitation programming. The Texas Department of Criminal Justice (TDCJ) works with the Board of Pardons and Paroles (Parole Board), and the Correctional Managed Health Care Committee (the Committee) to perform these functions. With a staff of about 38,000 employees and a budget of about \$2.6 billion, TDCJ incarcerates approximately 153,000 offenders in 106 prisons located throughout the state; provides funding and support for about 431,000 offenders on probation; and supervises approximately 77,000 offenders on parole and mandatory supervision. Both the Parole Board and the Committee operate as semi-independent agencies and are responsible for making offender parole determinations and coordinating offender healthcare services, respectively.

The Legislature adopted most of the Sunset Commission's recommendations and added several other statutory modifications to Senate Bill 909. Together, these provisions will ensure better information to policymakers regarding the criminal justice system, improved processes for parole decision making, and strengthened oversight and more transparency of correctional health care. Sunset provisions enacted in other legislation will improve processes for supervising probationers. The list below summarizes the major provisions of S.B. 909, and a more detailed discussion follows.

Sunset Provisions

1. Establish a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies.
2. Authorize judges to permit the early medical release of state jail confinees who pose no risk to public safety due to their medical conditions.
3. Require TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders early from parole and mandatory supervision.
4. Require the Board of Pardons and Paroles to annually review and update its parole guidelines, and report and explain to the Legislature its efforts to meet them.
5. Expand conflict of interest provisions and previous employment restrictions for Parole Board members and parole commissioners.

6. Require the Board of Pardons and Paroles to allow the nearest relative by consanguinity to represent a deceased victim in the parole review process.
7. Require TDCJ to identify and provide information and interventions to women offenders at risk of having an alcohol-exposed pregnancy.
8. Require TDCJ to study the option of using electronic tracking and monitoring devices for people on parole, and report the findings to the Legislature.
9. Continue the Texas Department of Criminal Justice for four years.
10. Require the Correctional Managed Health Care Committee to make information about offender health care readily available to the public and offenders.
11. Allow the Correctional Managed Health Care Committee to continue, but remove its separate Sunset date and update its statutory direction.

Provisions Added by the Legislature

12. Require TDCJ to adopt a salary career ladder for parole officers.
13. Require TDCJ to pay overtime to its employees when they earn it.
14. Authorize meetings between TDCJ management and state employee organizations.
15. Remove the licensing exemption for TDCJ's sex offender treatment providers.
16. Require TDCJ to adopt a zero-tolerance policy for sexual abuse of offenders.
17. Require TDCJ to conduct a dynamic risk assessment on sex offenders prior to their discharge or release.
18. Authorize the practice of bundling products to ensure savings in purchasing and establish taste test procedures for commissary food purchasing.
19. Adjust the Private Sector/Prison Industry Enhancement Certification Program participant cap and wage requirements.
20. Clarify that TDCJ may assist other law enforcement officers in emergency situations.
21. Expand the exemption from vehicle inscription requirements to all TDCJ vehicles.
22. Require TDCJ to perform a study on certain inmates and alternatives to incarcerating them in TDCJ facilities.
23. Require TDCJ to study relocating the Central Prison Unit in Sugar Land to a different location.
24. Prohibit certain interagency communications between TDCJ and parole panels.

25. Ensure the parole guidelines take program participation by an offender into consideration.
26. Require the Parole Board to submit a separate legislative appropriations request.
27. Require judges to conduct an open and competitive hiring process for the appointment of a Community Supervision and Corrections Department director.
28. Clarify medical assistance program eligibility requirements for offenders released through the Medically Recommended Intensive Supervision program.
29. Require counties to include information about offenders' health status when they are sent to TDCJ.
30. Require counties to take timely action against a person arrested for violating parole in a different county.
31. Provide an appeals process for court determinations to seek to revoke a defendant's probation for violating the conditions of probation.
32. Expand judges' ability to sentence a defendant to state jail for violating a condition of community supervision.
33. Authorize donations to a nonprofit food bank or food pantry in lieu of working at a community service project.
34. Clarify provisions in law regarding the removal of records from the intelligence database for criminal street gangs.

Sunset Provisions Adopted in Other Legislation

1. Request that the Legislature appropriate significant additional funds to TDCJ for offender treatment and rehabilitation programs proven to reduce recidivism.
2. Require CSCDs to identify and recommend probationers appropriate for early termination, and encourage TDCJ and the Legislature to adjust funding methods to minimize the loss of funds to CSCDs resulting from these early terminations.

Sunset Provisions

1. Establish a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies.

Senate Bill 909 creates the Criminal Justice Legislative Oversight Committee. The Committee consists of six members, including the Chair of the Senate Committee on Criminal Justice, the Chair of the House Committee on Corrections, two members of the Senate appointed by the Lieutenant Governor, and two members of the House of Representatives appointed by the Speaker. The Legislature modified the Sunset provision to give the Lieutenant Governor and Speaker greater flexibility in the members they appoint, and to specify that funding for the Committee shall be provided from funds appropriated to the Texas Legislative Council.

The bill requires the Committee to conduct an in-depth analysis of the criminal justice system, including assessing the cost-effectiveness of the use of state and local funds in the criminal justice system; identifying critical problems in the criminal justice system and recommending strategies to solve those problems; and determining long-range needs of the criminal justice system. The Committee must also recommend policy priorities for the system, and advise and assist the Legislature in developing plans, programs, and proposed legislation for improving the effectiveness of the criminal justice system.

2. Authorize judges to permit the early medical release of state jail confinees who pose no risk to public safety due to their medical conditions.

Senate Bill 909 expands the existing Medically Recommended Intensive Supervision program to include state jail confinees as well as prisoners. The bill permits a sentencing judge to grant early medical release to a state jail confinee if the judge determines that the confinee does not constitute a threat to public safety. The bill requires the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) to prepare a case summary and medical report that identifies the confinee as medically eligible for release and facilitates judicial review of the case. The bill also requires TCOOMMI to work with the Community Supervision and Corrections Department (CSCD) serving the sentencing court to develop appropriate supervision and continuity of care plans for the confinee.

3. Require TDCJ's Parole Division to identify eligible, low-risk offenders, and establish a process for releasing these offenders early from parole and mandatory supervision.

The bill requires parole officers to annually identify and review offenders eligible for early release from parole and mandatory supervision. Offenders become eligible for early release after completing one-half of their remaining sentences upon release from prison, including two consecutive years immediately preceding the review showing successful supervision without any violation of the rules or conditions of release.

The bill also requires parole officers to forward recommendations for early release to the regional parole supervisor for approval. Release recommendations will be based on an evaluation of each offender's

risk of recidivism and efforts to comply with conditions of supervision. Offenders released from supervision early remain under TDCJ jurisdiction until the completion of their sentence, and TDCJ retains the authority to require an offender to resubmit to supervision at any time.

4. Require the Board of Pardons and Paroles to annually review and update its parole guidelines, and report and explain to the Legislature its efforts to meet them.

Senate Bill 909 requires the Parole Board to meet each year to review and discuss how the guidelines serve the needs of parole decision making; how well the guidelines reflect parole panel decisions; and how well they predict successful parole outcomes. Through the assessment, the Parole Board may update the guidelines by including new risk factors or changing the values of offense severity or risk factor scores, or modify the recommended parole approval rates.

The bill requires the Parole Board to report to the Legislature explaining the parole guidelines; comparing the recommended parole approval rates to the actual approval rates for individual parole panel members, regional offices, and the state as a whole; describing when and why the actual parole approval rates do not meet the recommended approval rates under the guidelines; and listing actions taken or to be taken to meet the guidelines.

The bill also requires parole panel members who depart from the guidelines to provide a written statement describing in detail the specific reasons for the deviation. The bill provides that the approval and denial reasons currently used for parole determinations will not be sufficient.

5. Expand conflict of interest provisions and previous employment restrictions for Parole Board members and parole commissioners.

Senate Bill 909 makes parole commissioners subject to the same conflict of interest provisions as Parole Board members. The bill prohibits parole commissioners from ownership, or having a spouse who is an owner, of an entity funded or regulated by TDCJ or the Parole Board. In addition, parole commissioners and their spouses cannot be officers or paid representatives of a criminal justice trade association, and parole commissioners cannot be registered lobbyists.

The bill expands employment restrictions currently applicable to Parole Board members to apply to all future parole commissioners as well. A TDCJ employee may not serve as a parole commissioner until two years after the person terminated employment with TDCJ. The Legislature modified the Sunset provision to also prohibit a person who is a current or former member of the Parole Board from serving as a parole commissioner until two years after the person's membership on the Board ceases.

6. Require the Board of Pardons and Paroles to allow the nearest relative by consanguinity to represent a deceased victim in the parole review process.

The bill expands the definition of close relative to allow the nearest relative by consanguinity to represent a deceased victim in the parole review process only if the victim's spouse, parent, and adult sibling or child are deceased or incapacitated due to physical illness or infirmity. By including the nearest relative by consanguinity, the bill allows aunts, uncles, and cousins, related by blood, to participate in the parole review process.

7. Require TDCJ to identify and provide information and interventions to women offenders at risk of having an alcohol-exposed pregnancy.

Under this provision, TDCJ must assess women serving sentences of two years or less and who are between the ages of 18 and 44, to determine the risk of an alcohol-exposed pregnancy. Trained corrections personnel will administer and score an alcohol screening tool, and provide a brief intervention to women identified at risk for an alcohol-exposed pregnancy. The provision also requires TDCJ to provide a brochure about the risks of drinking alcohol during pregnancy to all women during intake into the correctional system.

8. Require TDCJ to study the option of using electronic tracking and monitoring devices for people on parole, and report the findings to the Legislature.

Senate Bill 909 requires TDCJ to study the operation and maintenance of different types of electronic monitoring equipment and report the findings to the Legislature by December 1, 2009. The study must examine the relative cost-effectiveness, level of supervision, and different rehabilitation and treatment options provided by the different types of equipment.

9. Continue the Texas Department of Criminal Justice for four years.

The Legislature modified the Sunset provision to continue TDCJ for four years, instead of the standard 12 years, as an independent agency responsible for providing public safety by confining, rehabilitating, and reintegrating offenders into society. Because the Board of Pardons and Paroles is not subject to abolishment, but is instead subject to Sunset review at the same time as TDCJ, it will also come under review in 2011.

10. Require the Correctional Managed Health Care Committee to make information about offender health care readily available to the public and offenders.

Senate Bill 909 requires the Committee to make the following correctional healthcare information accessible to the public through the Committee's website and in written form, upon request:

- ◆ contracts between TDCJ, the Committee, and the university healthcare providers, including the Offender Health Services Plan attachment;
- ◆ Correctional Managed Care Formulary;
- ◆ Correctional Managed Care Policies and Procedures Manual;
- ◆ quality assurance statistics and data, to the extent permitted by law;
- ◆ general information about the costs of correctional health care, including, but not limited to, quarterly and monthly financial reports, and aggregate cost information on items such as pharmaceutical costs, salaries and benefits, equipment, offsite medical services, and supplies;
- ◆ aggregate, statistical information about offender deaths and disease prevalence;
- ◆ description of the process for filing offender grievances;
- ◆ general statistics on the number and type of offender grievances filed during the previous quarter;

- ◆ contact information for the public to file complaints or submit inquiries to TDCJ and the university providers;
- ◆ information about the regulation and discipline of healthcare professionals and a link to the Health Professions Council website;
- ◆ unit data, including the most recent accreditation review date (if the unit has been accredited by a national accrediting body), hours of operation, a description of services available, general information on unit staffing, and statistics on offenders' ability to access care in a timely manner;
- ◆ dates and agendas for quarterly Committee meetings; and
- ◆ meeting minutes from past Committee meetings.

The bill also requires TDCJ to make the following correctional healthcare information available to offenders through the prison unit law libraries:

- ◆ Offender Health Services Plan;
- ◆ Correctional Managed Care Formulary;
- ◆ Correctional Managed Care Policies and Procedures Manual; and
- ◆ description of the process for filing offender grievances.

11. Allow the Correctional Managed Health Care Committee to continue, but remove its separate Sunset date and update its statutory direction.

Senate Bill 909 allows the Committee to continue, but the Legislature's decision to have such an entity to oversee the contracting relationship will not be the subject of future Sunset review. Instead, the Committee's role and responsibilities in the correctional healthcare system will be subject to review as part of future Sunset reviews of TDCJ. The bill also requires the Governor to designate one of the two public members who is licensed to practice medicine as the Chair of the Committee.

The bill also updates the Committee's statutory responsibilities, making the Committee responsible for:

- ◆ developing statewide policies for the delivery of offender health care;
- ◆ maintaining the contracts for healthcare services in consultation with TDCJ and the healthcare providers;
- ◆ allocating funding made available through legislative appropriations for correctional health care;
- ◆ identifying and addressing long-term needs of the correctional healthcare system;
- ◆ monitoring the universities' expenditures to ensure they are in compliance with statutory and contractual requirements;
- ◆ addressing problems found through monitoring performed by TDCJ and the universities, including requiring corrective action;
- ◆ serving as a dispute resolution forum in the event of a disagreement relating to offender health care between TDCJ and the healthcare providers or between the University of Texas Medical Branch and Texas Tech University Health Sciences Center;

- ◆ communicating with TDCJ and the Legislature about the financial needs of the correctional healthcare system; and
- ◆ providing reports to the Board of Criminal Justice at the Board's quarterly meetings on the Committee's policy decisions, financial status, and corrective actions.

Finally, S.B. 909 removes limitations on TDCJ's ability to monitor the quality of health care provided to offenders. TDCJ will be allowed to conduct any monitoring activities it feels are necessary. When TDCJ finds problems through these activities, it will be able to require the university healthcare providers to take corrective action. The agency will report to the Board of Criminal Justice and the Committee all corrective actions required and whether the universities took appropriate action in response.

Provisions Added by the Legislature _____

12. Require TDCJ to adopt a salary career ladder for parole officers.

The Legislature added a provision to the bill to require TDCJ's Executive Director to adopt a salary career ladder for the agency's parole officers. The career ladder must base a parole officer's salary on the officer's classification and years of service with TDCJ. The bill specifies classification levels and entitles parole officers to an annual merit increase as long as they receive satisfactory evaluations.

13. Require TDCJ to pay overtime to its employees when they earn it.

A provision added by the Legislature to S.B. 909 requires TDCJ to compensate employees for any overtime they accrue in the same month in which the employee accrued the overtime.

14. Authorize meetings between TDCJ management and state employee organizations.

Senate Bill 909 includes a provision added by the Legislature that authorizes TDCJ's Director to meet regularly with representatives of an eligible state employee organization that represents department employees in disciplinary or grievance matters, to identify matters of interest to both TDCJ and the employee organization. These matters may include the operation of TDCJ facilities and issues that could negatively affect employee retention and recruitment. The bill requires TDCJ's Director to submit an annual report to the Criminal Justice Legislative Oversight Committee on the outcome of these meetings.

15. Remove the licensing exemption for TDCJ's sex offender treatment providers.

A provision added to the bill by the Legislature prohibits the Texas Board of Criminal Justice from exempting a TDCJ employee who acts as a sex offender treatment provider from the state licensing requirement.

16. Require TDCJ to adopt a zero-tolerance policy for sexual abuse of offenders.

The Legislature added a provision to the bill requiring TDCJ to adopt a zero-tolerance policy concerning the detection, prevention, and punishment of sexual abuse of offenders in the agency's custody. The agency must establish standards for reporting and collecting data on sexual abuse. TDCJ must also develop a procedure for offenders to report incidents of sexual abuse to a designated employee at the facility where the abuse is alleged to have occurred and to an employee at TDCJ headquarters. The agency must display a specified notice relating to the policy and the duty to report violations in each TDCJ facility.

17. Require TDCJ to conduct a dynamic risk assessment on sex offenders prior to their discharge or release.

A legislative provision added to S.B. 909 requires TDCJ, before an inmate who is serving a sentence for a sexual offense is discharged or released, to use a dynamic risk assessment tool developed by the Council on Sex Offender Treatment to determine whether the inmate is a low, medium, or high risk of committing a sex offense after being released.

18. Authorize the practice of bundling products to ensure savings in purchasing and establish taste test procedures for commissary food purchasing.

Senate Bill 909 includes a provision added by the Legislature that allows TDCJ to use taste test results to award a commissary bid only if it contracts with a private vendor, university, or other independent organization to perform the taste tests. The bill specifies that the taste test results cannot account for more than 30 percent of the criteria used for a commissary bid award. The bill also authorizes TDCJ to provide for the bundling of products into categories to ensure savings through bulk purchasing, discounts for advance payments, and online ordering.

19. Adjust the Private Sector/Prison Industry Enhancement Certification Program participant cap and wage requirements.

The Legislature added a provision to the bill that increases the cap on the number of participants in Prison Industry Enhancement Certification Programs (PIE) from 500 to 700 offenders. The bill also provides that contracts between TDCJ and private businesses that operate PIE programs must require payment of at least minimum wage to offenders in the programs.

20. Clarify that TDCJ may assist other law enforcement officers in emergency situations.

A legislative provision added to S.B. 909 clarifies that TDCJ may assist municipal, county, state, or federal law enforcement officers, on request, in an emergency situation that presents a threat to public safety, including apprehending an escapee of a privately operated or federal correctional facility in addition to a municipal or county jail.

21. Expand the exemption from vehicle inscription requirements to all TDCJ vehicles.

The Legislature added a provision to S.B. 909 to clarify that the Board of Criminal Justice may, by rule, exempt any of the motor vehicles under the control and custody of TDCJ from the inscription requirements which identify a vehicle as belonging to TDCJ. Previously, the Board of Criminal Justice could only exempt motor vehicles within TDCJ's institutional or pardons and paroles division from the inscription requirements.

22. Require TDCJ to perform a study on certain inmates and alternatives to incarcerating them in TDCJ facilities.

Senate Bill 909 includes a provision added by the Legislature that requires TDCJ to conduct a study on the number of inmates who pose no significant risk of recidivism or danger to society because of their age, nature of the crime, or successful rehabilitation. The study must include alternatives to confining these inmates in a TDCJ facility, consideration of conducting a prisoner exchange program with foreign countries, and measures that TDCJ can take to assure offenders sent to another country under a prisoner exchange program are not released early. The bill requires TDCJ to submit the report to the 81st Legislature.

23. Require TDCJ to study relocating the Central Prison Unit in Sugar Land to a different location.

The Legislature added a provision to the bill that requires TDCJ to conduct a feasibility study of relocating the Central Prison Unit in Sugar Land to a more compatible location. If relocation is in the best interest of the correctional system and the City of Sugar Land, TDCJ shall examine the costs and benefits associated with relocation, appropriate measures to ensure that adequate easements are granted to allow development of surrounding lands, and an anticipated timeline for the relocation.

24. Prohibit certain interagency communications between TDCJ and parole panels.

A provision added by the Legislature to S.B. 909 specifies that TDCJ may not seek to prevent a parole panel from requiring an offender to complete a treatment program operated by TDCJ, regardless of available capacity in the program, before releasing the inmate on parole.

25. Ensure the parole guidelines take program participation by an offender into consideration.

The Legislature added a provision to the bill requiring the Parole Board to ensure that the parole guidelines take into consideration an offender's progress from participating in programs during the offender's term of confinement.

26. Require the Parole Board to submit a separate legislative appropriations request.

A legislative provision added to S.B. 909 requires the Parole Board to prepare, approve, and submit a legislative appropriations request that is separate from TDCJ's legislative appropriations request.

27. Require judges to conduct an open and competitive hiring process for the appointment of a Community Supervision and Corrections Department director.

The Legislature added a provision to S.B. 909 requiring district judges to use an open hiring process when appointing a Community Supervision and Corrections Department director. The bill requires judges to:

- ◆ publicly advertise the position;
- ◆ post a job description, qualifications for the position, and application requirements;
- ◆ conduct a competitive hiring process;
- ◆ adhere to state and federal equal employment opportunity laws; and
- ◆ review applicants who meet the posted qualifications and comply with application requirements.

28. Clarify medical assistance program eligibility requirements for offenders released through the Medically Recommended Intensive Supervision program.

The Legislature added a provision to the bill to clarify that offenders released from TDCJ correctional facilities on the Medically Recommended Intensive Supervision program, who otherwise meet the eligibility requirements for the state medical assistance program, are not ineligible for the program based on the adjudication that resulted in their confinement.

29. Require counties to include information about offenders' health status when they are sent to TDCJ.

A legislative provision added to S.B. 909 requires counties to include a copy of the Texas Uniform Health Status Update form, if prepared, in the packet of information delivered with each offender when they are transferred to TDCJ.

30. Require counties to take timely action against a person arrested for violating parole in a different county.

Under current law, when a person is arrested on a warrant from a different county, the magistrate of the county in which the person was arrested must provide notice of the arrest to the sheriff of the county in which the offense was alleged to have been committed who must take charge of the person within 11 days. The Legislature added a provision to S.B. 909 requiring counties in which an offense is alleged to have occurred to receive notice and take timely action against a person who is arrested in another county under a warrant for a violation of parole or mandatory supervision. Specifically, the county where the offense allegedly occurred must bring the arrested person before the proper magistrate or court before 11 days after the person was first jailed in the other county, or the person must be discharged from custody. This requirement reflects the same notice and discharge requirements already imposed on counties regarding persons arrested for new crimes in a different county from where the offense allegedly occurred.

31. Provide an appeals process for court determinations to seek to revoke a defendant’s probation for violating the conditions of probation.

Under current law, defendants charged with a violation of a condition of deferred adjudication community supervision are entitled to a preliminary hearing to determine whether the court will proceed with an adjudication of guilt on the original charge. The Legislature added a provision to S.B. 909 to permit a review of this preliminary determination following the same appeals process used for a revocation hearing in a case in which an adjudication of guilt had not been deferred.

32. Expand judges’ ability to sentence a defendant to state jail for violating a condition of community supervision.

Currently, if a judge grants a defendant deferred adjudication for certain state jail offenses and the defendant violates a condition of supervision, the judge can revoke supervision but must place the defendant on probation again by suspending the sentence. The Legislature added a provision to S.B. 909 authorizing a judge who revokes deferred adjudication probation for certain state jail offenses to either suspend the sentence and place the defendant on community supervision, or sentence the defendant to state jail.

33. Authorize donations to a nonprofit food bank or food pantry in lieu of working at a community service project.

Senate Bill 909 includes a provision added by the Legislature that allows judges to order a defendant to make a specified donation to a nonprofit food bank or food pantry in the community in which the defendant resides in lieu of requiring the defendant to work a specified number of hours of community service.

34. Clarify provisions in law regarding the removal of records from the intelligence database for criminal street gangs.

Currently, gang-related information must be removed from the criminal street gang intelligence database after a three-year period. The Legislature added a provision to S.B. 909 clarifying that in addition to a TDCJ facility, the three-year period does not include any period during which an individual was confined within a TDCJ contract facility or county jail in lieu of confinement within TDCJ.

Sunset Provisions Adopted in Other Legislation

1. Request that the Legislature appropriate significant additional funds to TDCJ for offender treatment and rehabilitation programs proven to reduce recidivism.

In its review of TDCJ, the Sunset Commission recommended that the Legislature appropriate additional funding for treatment and rehabilitation programs for offenders on probation, in prison,

and on parole. In total, the Sunset Commission recommended appropriating approximately \$114 million for in-prison treatment, parole and probation treatment, pre-trial diversion programs, and literacy education. This recommendation was made to the Legislature and the relevant appropriative committees, but was not contained as a provision in S.B. 909. However, House Bill 1, the 2008-09 General Appropriations Act, provides significant additional funding, totaling approximately \$222 million for the biennium, for treatment and rehabilitation programs for offenders on probation, in prison, and on parole.

2. Require CSCDs to identify and recommend probationers appropriate for early termination, and encourage TDCJ and the Legislature to adjust funding methods to minimize the loss of funds to CSCDs resulting from these early terminations.

The Legislature removed the Sunset provision in S.B. 909 requiring Community Supervision and Corrections Departments (CSCDs) to conduct early termination reviews of eligible felony and misdemeanor probationers, and to make recommendations to district judges regarding sentence reductions or terminations. However, the Legislature did pass House Bill 1678, which contains a modified version of this provision. House Bill 1678 requires judges to review and consider a reduction or termination of supervision terms for probationers who have served two years or one-half of their sentences, whichever is more.

The Legislature also removed the Sunset provision in S.B. 909 that adjusts statutory supervision funding formulas to ensure CSCDs maintain adequate funding while permitting early termination of probationers. The Legislature did pass House Bill 3200, which would have adjusted the funding formula for basic supervision and accomplished the same goal set out in the Sunset provision. However, the Governor vetoed H.B. 3200. House Bill 3200 would have changed the supervision funding formula to require higher rates for probationers in the early years of supervision, and awards for the early termination of probationers, encouraging judges to allow early termination of low-risk probationers and ensuring that CSCDs maintain funding if early terminations increase.

Fiscal Implication Summary

Senate Bill 909 contains three provisions that will have a net cost of about \$5.3 million to TDCJ for the 2008-09 biennium.

Authorizing the release of medically eligible state jail confinees will result in a savings to TDCJ. Based on the medical costs associated with state jail confinees previously released on Medically Recommended Intensive Supervision, and assuming only 5 percent of all medically-eligible inmates will be released, the result will be an annual savings of \$1,063,479.

Removing limitations on TDCJ's ability to monitor the quality of health care provided to offenders will have a cost of \$845,000 per year. This cost will cover the salaries of 11 new full-time staff and approximately \$50,000 in operating expenses. However, TDCJ did not receive additional funding for this provision. Instead, the Legislature included a contingency rider in the General Appropriations Act requiring TDCJ to cover these costs with its current resources, at no additional cost to the State. The Legislature did increase TDCJ's full-time equivalents by 11 in fiscal year 2008 and fiscal year 2009.

Requiring TDCJ to establish a salary career ladder for parole officers will have a cost. To ensure all parole officer salaries are in line with the career ladder, TDCJ's additional salary expenditure will total \$2,728,508 in fiscal year 2008 and an additional \$315,596 in each subsequent year. Again, because TDCJ did not receive additional funding for this provision, the agency must cover the cost within its current resources, at no additional cost to the State.



Prepaid Higher Education Tuition Board

Staff Contact: Amy Trost

H.B. 2173 B. Cook, et al. (Brimer)

Summary

The Prepaid Higher Education Tuition Board (the Board), established by the Legislature in 1995, oversees the State's two 529 college savings plans. The Texas Guaranteed Tuition Plan allows Texas families to prepay college tuition and is backed by the full faith and credit of the State. The Board temporarily suspended enrollment in the Guaranteed Tuition Plan in 2003 because of the uncertain effects of tuition deregulation. The Board also oversees Tomorrow's College Investment Plan that works much like a 401(k) but with after-tax dollars. This plan helps parents save for college, but is not guaranteed by the State. Housed at the Comptroller's Office, the Board is supported by 21 staff and receives no appropriations but instead relies on guaranteed tuition contract payments, investment income, and fees to cover administrative costs and tuition benefits.

House Bill 2173 continues the Board for 12 years and contains all of the Sunset Commission's recommendations to help the Board reopen enrollment in the Texas Guaranteed Tuition Plan. The list below summarizes the bill's major provisions, and a more detailed discussion follows.

Sunset Provisions

1. Facilitate the Board's ability to reopen the Guaranteed Tuition Plan by giving the Board the flexibility to more accurately price tuition contracts in the current tuition deregulated environment.
2. Require an ethics policy for Board members and staff to help ensure against any potential conflicts of interest.
3. Require the Board to study how it could leverage prepaid tuition contracts to secure benefits for Guaranteed Tuition Plan beneficiaries from Texas universities.
4. Continue the Prepaid Higher Education Tuition Board for 12 years.

Provision Added by the Legislature

5. Require Guaranteed Tuition Plan applicants to provide certain demographic information.

Sunset Provisions

1. Facilitate the Board’s ability to reopen the Guaranteed Tuition Plan by giving the Board the flexibility to more accurately price tuition contracts in the current tuition deregulated environment.

For any new guaranteed tuition contracts the Board sells, H.B. 2173 removes the requirement that a university accept only the weighted average amount of tuition of public universities, even if its tuition exceeds the average. The bill also authorizes the Board to issue refunds for new tuition contracts if a purchaser pays more for a contract than the actual cost of tuition. In combination with removing the weighted average requirement, this refund authority will allow the Board to price new tuition contracts high enough to protect the Plan’s assets, but also protect an individual purchaser from paying more than the cost of tuition. For new contracts, H.B. 2173 authorizes the Board to require a maturity period before a beneficiary can use guaranteed tuition benefits, allowing time for the Board’s investments to grow.

The bill requires the Board to create a procedure in rule that clearly outlines criteria to use when annually analyzing whether the Guaranteed Tuition Plan may reopen. As part of this procedure, the Board must consider the Plan’s current structure and whether additional statutory changes are needed for it to reopen.

2. Require an ethics policy for Board members and staff to help ensure against any potential conflicts of interest.

The bill places in law the Board’s existing ethics policy that addresses general ethical standards, conflicts of interest, and other ethical matters for Board members and staff.

3. Require the Board to study how it could leverage Guaranteed Tuition Plan contracts to secure benefits for Plan beneficiaries from Texas universities.

House Bill 2173 requires the Board to conduct a one-time study to determine whether it could negotiate with Texas universities to secure tuition discounts or other benefits for students with guaranteed tuition contracts.

4. Continue the Prepaid Higher Education Tuition Board for 12 years.

The bill continues the Board, housed at the Comptroller of Public Accounts, for the standard 12-year period.

Provision Added by the Legislature _____

5. Require Guaranteed Tuition Plan applicants to provide certain demographic information.

The Legislature added a provision to the bill that requires contract purchasers and beneficiaries to report additional information, including purchasers' annual household income, to the Board.

Fiscal Implication Summary _____

House Bill 2173 will not have a significant fiscal impact to the State.



Texas Historical Commission

Staff Contact: *Chloe Lieberknecht*

H.B. 12 Hilderbran, et al. (Estes)

Summary

The Texas Historical Commission (THC), the state agency for historic preservation, traces its history to 1953. The Commission's mission is to protect and preserve Texas' unique historic resources. The Commission identifies, designates, preserves, and interprets historic resources in Texas; reviews proposed projects that impact those resources; and provides assistance to communities and organizations for developing and preserving historic resources. The agency operated with a budget of about \$11 million in fiscal year 2006 and employs about 110 staff.

Senate Bill 900 as introduced contained all of the Sunset Commission's recommendations on THC, including provisions to clearly define the agency's relationship with the Friends of the Texas Historical Commission and create a statewide approach for historical markers. When the bill reached the House, the House committee added a new provision that removes the specific qualifications for appointment to the Historical Commission. However, S.B. 900 failed to pass. Instead, the Sunset provisions originally in S.B. 900, and the appointment qualification provision, were incorporated into House Bill 12, which makes changes to law affecting both the Texas Parks and Wildlife Department and THC. The list below summarizes the major Sunset provisions regarding THC included in H.B. 12, and a more detailed discussion follows.

Sunset Provisions

1. Require the Texas Historical Commission to adopt rules governing the relationship between the agency and its associated nonprofit corporation.
2. Require THC to create a statewide strategy for awarding historical markers.
3. Continue the Texas Historical Commission for 12 years.

Provision Added by the Legislature

4. Remove the specific composition requirements for Commission members of the Texas Historical Commission.

Sunset Provisions

1. Require the Texas Historical Commission to adopt rules governing the relationship between the agency and its associated nonprofit corporation.

House Bill 12 requires THC to adopt rules governing the relationship between the agency and any affiliated nonprofit organization that helps raise money for preservation projects. The legislation requires the agency to adopt rules defining the relationship between agency staff and the nonprofit. The Legislature modified the Sunset provision to clarify that the agency must define what type of involvement regulatory employees can have in fundraising activities, but that these employees cannot directly solicit funds.

The bill prohibits THC's Executive Director from serving as a voting member of the board of any affiliated nonprofit organization. Finally, H.B. 12 requires THC to establish guidelines that will identify and define the type of administrative and financial support the agency should give to the nonprofit organization Friends of the Texas Historical Commission.

2. Require THC to create a statewide strategy for awarding historical markers.

House Bill 12 requires the Commission to develop statewide themes for the marker program related to its broader preservation goals for the State and give priority to markers that relate to those themes. The bill requires the Commission to limit the number of markers it awards annually.

3. Continue the Texas Historical Commission for 12 years.

The legislation continues the Texas Historical Commission as an independent agency for 12 years.

Provision Added by the Legislature

4. Remove the specific composition requirements for Commission members of the Texas Historical Commission.

The Legislature added a provision to H.B. 12 that maintains the 17-member commission but removes the specific qualifications needed for appointment to the Historical Commission. The bill removes the requirements for the appointment of a professional archeologist, a professional historian, a licensed architect who has expertise in historical preservation and architectural history, 14 public members, and at least two members from counties with a population of less than 50,000.

Fiscal Implication Summary

None of the provisions in House Bill 12 related to the Sunset Commission's recommendations on the Texas Historical Commission will have a net fiscal impact to the State.



Texas State Library and Archives Commission

Staff Contact: Amy Trost

S.B. 913 Brimer (McClendon)

Summary

The Texas State Library and Archives Commission (TSLAC) works to improve the availability and quality of library services across the state, and to preserve and provide access to historic Texas documents. To accomplish this mission, TSLAC has three functions: providing financial and consulting assistance to individual libraries and regional library systems to promote library development and resource sharing; providing direct library services to Texans with disabilities; and ensuring access to important Texas documents by coordinating state and local records management, and acquiring and preserving archival documents. TSLAC operated with a budget of \$28 million in fiscal year 2006 and employs 188 staff, most of whom work in Austin at the agency's headquarters and at the State Records Center.

Senate Bill 913 continues TSLAC for 12 years and contains all of the Sunset Commission's recommendations to help the agency modernize its programs and more effectively target its limited resources. The list below summarizes the major provisions of S.B. 913, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Texas State Library and Archives Commission for 12 years.
2. Restructure regional library systems' funding to provide flexibility to meet changing conditions and encourage innovation.
3. Eliminate state certification of county librarians.
4. Authorize TSLAC in law to provide direction and leadership to collaborative efforts to develop online access to historical resources.
5. Require TSLAC and the Texas Education Agency to develop a joint study of school library needs, and to assess which needs each agency should address.

Provisions Added by the Legislature

6. Update and redefine TSLAC's existing grant programs.
7. Require TSLAC to implement a program of grants to aid local libraries.
8. Allow library systems to accept money other than TSLAC funding.
9. Require TSLAC to take custody of certain records in case of an irresolvable ownership dispute.

Sunset Provisions

1. Continue the Texas State Library and Archives Commission for 12 years.

The bill continues TSLAC as an independent agency for 12 years.

2. Restructure regional library systems' funding to provide flexibility to meet changing conditions and encourage innovation.

Senate Bill 913 removes the system funding formula from statute and requires TSLAC to adopt a new formula in rule that provides flexibility, but continues to ensure funding for basic system support services. The bill requires TSLAC to distribute a portion of system funds in competitive grants aimed at increasing innovation and targeting state and federal goals, and requires grant recipients to report best practices and performance outcomes.

3. Eliminate state certification of county librarians.

The bill removes the requirement to certify county librarians from TSLAC's statute, discontinuing state regulation of individual librarians and leaving the agency to focus on the broader oversight and support of library facilities statewide.

4. Authorize TSLAC in law to provide direction and leadership to collaborative efforts to develop online access to historical resources.

The bill authorizes TSLAC to promote, and provide leadership to, collaboration between a wide range of Texas institutions to develop online access to digitized cultural resources. The bill clarifies TSLAC's ability to include museums in the collaboration, which hold many important resources.

5. Require TSLAC and the Texas Education Agency to develop a joint study of school library needs, and to assess which needs each agency should address.

The bill requires TSLAC and the Texas Education Agency to develop a joint study of school library needs and to assess which needs each agency should address. The study must be presented to the Governor, Lieutenant Governor, Speaker of the House, and the appropriate oversight committees in the House and Senate. The Legislature modified the study's due date from September 1, 2008 to December 31, 2008.

Provisions Added by the Legislature

6. Update and redefine TSLAC's existing grant programs.

The Legislature added a provision to the bill that updates existing law to reflect current practice by requiring TSLAC to establish grant programs using state, federal or other funds, and redefines several types of grants the agency may award.

7. Require TSLAC to implement a program of grants to aid local libraries.

The Legislature added a provision to the bill that requires TSLAC to implement a program of direct grants to local libraries, which TSLAC already does through its Loan Star Libraries program. The bill also requires grant recipients to report to the agency information relating to best practices and performance outcomes.

8. Allow library systems to accept money other than TSLAC funding.

The Legislature added a provision to S.B. 913 that allows library systems to receive and spend outside funding, in addition to the system operation grants provided by TSLAC, and to retain certain funds for use in future fiscal years.

9. Require TSLAC to take custody of certain records in case of an irresolvable ownership dispute.

The Legislature added a provision to the bill that requires TSLAC to take custody of any record that is at least 50 years old and involved in an irresolvable ownership dispute between an institution of higher education and a county.

Fiscal Implication Summary _____

Senate Bill 913 will not have a significant fiscal impact to the State.



Board of Nurse Examiners

Staff Contact: Joe Walraven

H.B. 2426 Truitt, et al. (Deuell)

Summary

The mission of the Board of Nurse Examiners (the Board) is to protect the public and promote the welfare of Texans by regulating the practices of professional and vocational nursing. The Board seeks to accomplish its mission by licensing qualified individuals to practice nursing; authorizing the advanced practice of qualified professional nurses for such things as issuing prescriptions; establishing standards for and approving nursing education programs; and investigating and taking disciplinary action to enforce the Nursing Practice Act and Board rules. The agency operated with a budget of about \$6.5 million in fiscal year 2006 and employs 79 staff.

House Bill 2426 continues the Board of Nurse Examiners and contains all of the Sunset Commission's recommendations, including legislative guidance in areas such as approving nursing education programs and the Board's use of criminal history information. The list below summarizes the major provisions of H.B. 2426, and a more detailed discussion follows.

Sunset Provisions

1. Streamline the Nurse Board's process for approving nursing education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nursing education.
2. Encourage an innovative approach by the Board for dealing with the nursing shortage.
3. Require the Board to clarify how it will use criminal history and arrest information in licensing and disciplining nurses.
4. Change the way the Board uses advisory committees to ensure objective, independent advice on Board functions and policies.
5. Adopt the Advanced Practice Registered Nurse Multistate Compact to make it easier for nurses to come to Texas.
6. Improve the Board's ability to deal with impaired nurses who commit practice violations.
7. Strengthen the Board's oversight of targeted continuing education to make the requirements workable for the Board and beneficial for nurses.
8. Conform key elements of the Board's licensing and enforcement functions to commonly applied licensing practices.
9. Continue the Board of Nurse Examiners for 10 years.

Provisions Added by the Legislature

10. Change the name of the agency to the Texas Board of Nursing.
11. Establish the Texas Hospital-Based Nursing Education Partnership Grant Program.
12. Allow flexibility in employment policies for nurses in medical and dental units.

Sunset Provisions

1. Streamline the Nurse Board's process for approving nursing education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nursing education.

The bill allows any nursing program that maintains accreditation through a nursing accrediting agency recognized by the U.S. Department of Education, and determined by the Board to have acceptable standards, to be approved by the Board and exempt from Board rules regarding ongoing program approval if the program's pass rate on the licensing examination does not indicate a problem. The Legislature modified this provision to require approved nursing education programs to provide the Board reports related to their accreditation and to provide other information for nursing workforce analysis in Texas. The Legislature added language to clarify that the Board can withdraw its approval from a nursing program that fails to meet the standard under which it is approved by the Board.

House Bill 2426 also clarifies that the Board can recognize and accept as approved for educational and licensing purposes, nursing education programs that are approved by another state board of nursing that meet the Texas Board's standards. The Board may no longer consider students in Texas enrolled in these programs to be practicing nursing without a license. In addition, the bill limits the Board to approving only nursing education programs that lead to initial licensure as a professional or vocational nurse.

The bill requires the Board to streamline its initial approval process by identifying and eliminating tasks that are duplicated or overlap between the Board and the Texas Higher Education Coordinating Board or the Texas Workforce Commission. The Board must work with these agencies to establish guidelines for initial program approval, specifying that approval by either of these agencies must precede the Board's approval because of those agencies' primary roles in approving education programs.

The Legislature modified the Sunset provision regarding phasing out hospital-based diploma programs by 2015 to specify that such a program of study completed on or after December 31, 2014 must entitle a student to receive a degree upon successful completion of a degree program of a public or private institution of higher education recognized by the Coordinating Board.

The Legislature further modified the bill's provisions regarding nursing education to require the governing institution of a professional nursing school to be accredited by an agency recognized by the Coordinating Board, or be in the process of gaining accreditation. The bill prohibits the Nurse Board from requiring such accreditation on its own.

2. Encourage an innovative approach by the Board for dealing with the nursing shortage.

The bill requires the Board to implement, monitor, and evaluate a plan for creating innovative models for nursing education that promote increased enrollment in Texas nursing programs as part of a plan to alleviate the nursing shortage in Texas. The Legislature modified the Sunset provision to include the Texas Health Care Policy Council with the Coordinating Board and nursing education stakeholders in the collaboration to create the plan. The Board must implement a statewide plan for creating these models and must report back to the Sunset Commission by September 1, 2008, regarding the plan and the Board's efforts to increase enrollment in nursing education programs.

3. Require the Board to clarify how it will use criminal history and arrest information in licensing and disciplining nurses.

House Bill 2426 requires the Board to establish guidelines to ensure that criminal history and arrest information used in making license eligibility and disciplinary decisions relates to the individual's ability to practice nursing.

4. Change the way the Board uses advisory committees to ensure objective, independent advice on Board functions and policies.

The bill requires the Board to adopt rules regarding the purpose, structure, and use of its advisory committees. The bill prohibits Board members from serving on the Board's advisory committees, and requires the Board to change its current advisory committee structure to ensure that it is consistent with these requirements. The Legislature modified the Sunset provision to delete language that had prohibited Board members from being entitled to travel expenses for attending advisory committee meetings as a liaison from the Board.

5. Adopt the Advanced Practice Registered Nurse Multistate Compact to make it easier for nurses to come to Texas.

House Bill 2426 adopts the Advanced Practice Registered Nurse (APRN) Multistate Compact and allows qualified advanced practice nurses from other member states to practice in Texas without having to go through the Board's authorization process. Authority to establish criteria for recognizing advanced practice nurses remains with the Board and is not dictated by the APRN Compact. The Board must adopt rules necessary for implementation of the APRN Compact by December 31, 2011 or the authority to implement the Compact expires.

6. Improve the Board's ability to deal with impaired nurses who commit practice violations.

The bill requires third parties, who already have an obligation to report impaired nurses to a peer assistance program, to report to the Board when a practice violation occurs as a result of a nurse's chemical dependency or diminished mental capacity. In these cases, the Board is responsible for determining if a nurse violated the Act, and is therefore subject to appropriate discipline by the Board. The Board must also develop guidelines, in rule, to improve information sharing and communication between the Board and its peer assistance provider.

7. Strengthen the Board’s oversight of targeted continuing education to make the requirements workable for the Board and beneficial for nurses.

House Bill 2426 requires the Board to define the parameters of targeted continuing education (CE) requirements imposed by the Legislature or the Board. The Board’s guidelines may specify the nurses affected, the types of courses required, the time frames for completing the CE and other requirements. The bill does not preclude targeted CE from being required for nurses and does not change the current requirement for 20 hours of CE in each two-year period.

8. Conform key elements of the Board’s licensing and enforcement functions to commonly applied licensing practices.

The bill includes 10 provisions that bring the Nurse Board in line with standard licensing agency practices, including the following.

- ◆ Requires applicants to pass a jurisprudence exam as a condition of licensure.
- ◆ Requires the Board to adopt clear procedures governing all parts of the testing process, including test admission and administration.
- ◆ Directs the Board to establish a policy for nonrefundable examination fees.
- ◆ Changes the basis for the Board’s late renewal penalties, as modified by the Legislature to provide for the Board to establish late fees to encourage timely renewal of licenses and to remove the requirement for a person whose license is expired for more than one year to obtain new license through reexamination.
- ◆ Requires the Board to adopt an enforcement matrix in rule.
- ◆ Requires the Board to develop a method for analyzing trends in complaints and violations.
- ◆ Authorizes staff to dismiss baseless cases.
- ◆ Increases the amount of the Board’s administrative penalty authority.
- ◆ Authorizes the Board to require refunds as part of the agreed settlement process.
- ◆ Authorizes the Board to issue cease-and-desist orders, as modified by the Legislature to issue the order without first having to provide notice and opportunity for hearing.
- ◆ Authorizes Board members to receive reimbursement for travel expenses.

9. Continue the Board of Nurse Examiners for 10 years.

House Bill 2426 continues the Board as an independent agency for 10 years, until 2017. The 10-year renewal period will put the Board on the same review schedule as other similar healthcare regulatory boards, such as the Texas Medical Board.

Provisions Added by the Legislature

10. Change the name of the agency to the Texas Board of Nursing.

The bill changes the name of the agency from the “Board of Nurse Examiners” to “Texas Board of Nursing” and updates references in the Nursing Practice Act and other statutes to reflect the name change. The bill also clarifies that current Board members continue to serve as members of the Texas Board of Nursing for the remainder of their terms.

11. Establish the Texas Hospital-Based Nursing Education Partnership Grant Program.

House Bill 2426 establishes a new Texas Hospital-Based Nursing Education Partnership Grant Program. The bill requires the Texas Higher Education Coordinating Board, to the extent funds are available through legislative appropriation or from gifts, grants, and donations, to make grants to hospital-based nursing education partnerships to assist those partnerships to meet the State’s needs for registered nurses. Nursing education programs participating in the partnership must meet Nurse Board standards for instruction and student competency.

12. Allow flexibility in employment policies for nurses in medical and dental units.

The bill requires the president of a medical and dental unit to determine whether a nurse employed by the unit for patient care or clinical activities is a full-time employee for purposes of employees group benefits, leave, and longevity pay. The bill also allows the medical or dental unit to contribute to the cost of any coverage or benefit above the state contribution from money other than that appropriated from general revenue.

Fiscal Implication Summary

House Bill 2426 will not have a fiscal impact to the State. Although the bill establishes the Texas Hospital-Based Nursing Education Partnership Grant Program, the Legislature did not appropriate funding for this provision.



Texas Real Estate Commission

Staff Contact: *Christian Ninaud*

S.B. 914 Shapleigh (Truitt, et al.)

Summary

Texas began regulating the real estate profession in 1939, and later created the Texas Real Estate Commission (TREC) in 1949. The agency's mission is to protect consumers engaged in real estate transactions by ensuring that licensees properly represent their client's interests. TREC's main functions include: licensing qualified individuals to act as real estate salespersons, brokers, and home inspectors; setting standards for these professions; and enforcing agency statute and rules by investigating and resolving complaints. TREC also regulates private real estate schools, timeshare developers, and home warranty companies; and provides administrative support to the separate Texas Appraiser Licensing and Certification Board. TREC operates with an annual budget of about \$4.5 million, and a staff of 76. In fiscal year 2006, the agency licensed more than 153,000 individuals and businesses.

Senate Bill 914 continues TREC for 12 years and contains the Sunset Commission's recommendations to increase protections for consumers involved in real estate transactions, and provide prospective real estate school students with information on the quality of schools. The bill transfers TREC's and the Appraiser Board's contested case hearings to the State Office of Administrative Hearings (SOAH), and provides for fairer, more efficient processes for license holders. The list below summarizes the major provisions of S.B. 914, and a more detailed discussion follows.

Sunset Provisions

1. Increase TREC's focus on consumer protection, and provide the agency additional enforcement tools.
2. Improve TREC's ability to quickly resolve complaints, and transfer its hearings to SOAH.
3. Improve regulation of private real estate schools to ensure students get a quality education.
4. Conform key elements of TREC's licensing and regulatory functions to commonly applied licensing practices.
5. Continue the Texas Real Estate Commission for 12 years, and better integrate regulation of home inspectors and appraisers into the agency's structure.

Provisions Added by the Legislature

6. Provide consumers with additional protections if financially harmed by actions of a home inspector.
7. Prevent real estate licensees from completing online continuing education courses in less than one day.

Sunset Provisions

1. Increase TREC's focus on consumer protection, and provide the agency additional enforcement tools.

Senate Bill 914 contains several provisions to strengthen TREC's ability to protect consumers. The bill requires the agency to prioritize investigation of consumer complaints based on risk to consumers, using several criteria, including the degree of potential harm to a consumer and the severity of the violation.

To more appropriately hold licensees accountable for committing violations, S.B. 914 removes the \$1,000 administrative fine limit for practicing without a license, and increases fine authority to a maximum of \$5,000 per day, per violation. The Commission must also adopt a penalty matrix that includes administrative fines and other sanctions against a licensee to ensure consistent and fair enforcement of licensing violations.

Senate Bill 914 allows the Commission to include refunds as part of an agreed order, limited to fees paid for real estate-related services and products regulated by the agency, and not to include damages. The bill also authorizes the Commission to issue final orders against a person who committed a violation while licensed, but whose license expires during the investigation, to avoid re-opening these cases at a later date if the person re-applies for a license.

2. Improve TREC's ability to quickly resolve complaints, and transfer its hearings to SOAH.

The bill streamlines TREC's enforcement function by combining the administrative penalty and contested case process into a single enforcement process, and requiring the agency to align all parts of the process to ensure rapid and fair resolution of cases. To accomplish this, TREC must create an enforcement plan that includes the following:

- ◆ authority to issue notices of violation;
- ◆ requirements for licensees to respond to notices of violations;
- ◆ requirements for the Commission to issue default orders when licensees do not respond to a notice of violation; and
- ◆ authority to hold informal settlement conferences to resolve complaints and negotiate agreed orders.

In addition, the bill transfers TREC's and the Appraiser Board's contested case hearings to the State Office of Administrative Hearings to ensure hearings are carried out efficiently and independently.

3. Improve regulation of private real estate schools to ensure students get a quality education.

The bill requires the Commission to establish a minimum average exam pass rate, above 55 percent, for a school to be re-accredited by the Commission. TREC must publish exam pass rates for individual real estate schools and provide this information to the public by posting this information

on its website. The bill also allows TREC to convene a committee to conduct assessments of low-performing schools, and assist these schools with improving operations or teaching methods.

4. Conform key elements of TREC's licensing and regulatory functions to commonly applied licensing practices.

To bring TREC in line with standard licensing practices, S.B. 914 includes the following provisions.

- ◆ Requires the Commission to base delinquent license renewal fees on the normally required renewal fee.
- ◆ Eliminates licensing and administrative fee caps and authorizes the Commission to set reasonable fees in rule.
- ◆ Authorizes administrative penalties against residential service companies of up to \$5,000 per day, per violation.
- ◆ Authorizes the Commission to issue cease-and-desist orders with regard to practicing without a license.
- ◆ Authorizes temporary suspension of a license when continued practice by a licensee threatens the public.
- ◆ Authorizes the Commission to approve continuing education courses for home inspectors.

5. Continue the Texas Real Estate Commission for 12 years, and better integrate regulation of home inspectors and appraisers into the agency's structure.

Senate Bill 914 continues TREC as a separate, stand-alone agency for the standard 12-year period. The bill aligns the Inspector Committee's role and authority with standards for advisory committees, including authorizing reimbursement for carrying out committee duties. The bill also requires TREC's Administrator to serve as the Appraiser Board's Commissioner, and fully integrates Appraiser Board staff into TREC's management structure while keeping the Appraiser Board as an independent regulatory body to meet federal requirements.

Provisions Added by the Legislature _____

6. Provide consumers with additional protections if financially harmed by actions of a home inspector.

The Legislature added a provision requiring home inspectors to carry minimum liability insurance to help ensure additional recourse for consumers harmed by inspectors committing prohibited acts such as performing a negligent inspection or acting fraudulently.

7. Prevent real estate licensees from completing online continuing education courses in less than one day.

Senate Bill 914 requires an education provider offering an online continuing education course to ensure that the course cannot be completed in less than 24 hours.

Fiscal Implication Summary

Senate Bill 914 contains one provision that will have a positive fiscal impact to the state and one provision that will have no net fiscal impact. Basing late license renewal fees on the cost of renewal, rather than the cost of an original license application, will result in an estimated annual revenue gain of \$129,000, with a one-time cost of \$10,080 in fiscal year 2008 for computer programming changes relating to licensing renewal.

While requiring home inspectors to carry liability insurance will result in some programming costs, and may require one additional employee, the agency can increase inspector licensing fees to recover costs associated with this provision. The revenue gain is shown in the following five-year summary chart.

<i>Fiscal Year</i>	<i>Gain to the General Revenue Fund</i>
2008	\$118,920
2009	\$129,000
2010	\$129,000
2011	\$129,000
2012	\$129,000



State Office of Risk Management

Staff Contact: Steve Hopson

S.B. 908 Brimer (McClendon)

Summary

The Legislature created the State Office of Risk Management (SORM) in 1997 to assist state agencies in protecting their employees and the State's physical and financial assets by reducing and controlling risk. SORM has three primary functions: administering an employee workers' compensation insurance program; providing risk management services to state agencies; and coordinating state agency purchases of property, casualty, and liability insurance. SORM currently covers 172,000 employees with \$54 million in claims costs per year. The agency employs 124 staff and has an annual budget of \$64.7 million.

Senate Bill 908 continues SORM for 12 years and contains the Sunset Commission's recommendations to improve the functioning of SORM and to better prepare the agency to handle its responsibilities, including returning injured employees to work and preparing for man-made or natural disasters. The list below summarizes the major provisions of S.B. 908, and a more detailed discussion follows.

Sunset Provisions

1. Require SORM to facilitate the return to work of injured employees by expanding its case management program and reporting the lost time and return to work outcomes of state agencies.
2. Require SORM to study how the State could structure its workers' compensation program to be prepared for claims resulting from a disaster and to report options to the Legislature.
3. Require SORM to pay most indemnity benefits by direct deposit.
4. Require state agencies to develop business continuity plans with SORM's consultation and evaluation.
5. Require SORM, the Texas Facilities Commission, and the State Fire Marshal's Office to exchange safety information.
6. Continue the State Office of Risk Management for 12 years.

Provision Added by the Legislature

7. Protect personal information in workers compensation claim files from disclosure.

Sunset Provisions

1. Require SORM to facilitate the return to work of injured employees by expanding its case management program and reporting the lost time and return to work outcomes of state agencies.

Senate Bill 908 requires SORM to develop an expanded case management program that focuses on facilitating the reintegration of injured employees. This provision builds upon the requirements in House Bill 7, 79th Legislature, that insurance carriers evaluate claims as soon as possible to determine if case management is necessary. In addition to facilitating communication between parties and access to appropriate medical treatment, the program will focus on working directly with the injured worker to overcome any barriers to return to work. The bill also requires SORM to evaluate lost time and return to work outcomes by agency, and report the results to the Legislature. This provision will allow SORM to measure the success of its efforts to identify agencies that may need additional training or risk management services.

2. Require SORM to study how the State could structure its workers' compensation program to be prepared for claims resulting from a disaster and to report options to the Legislature.

Senate Bill 908 requires SORM to study various options, such as establishing a state employee workers' compensation catastrophe fund outside of the State Treasury, purchasing catastrophe reinsurance, or other options which may be available to the State in case of a disaster. SORM must work with the Texas Department of Insurance's Research and Evaluation Group to determine viable options on how the State can better prepare for workers' compensation claims resulting from a disaster. In addition, SORM must contract with a consultant to analyze the costs of potential disasters, and estimate the appropriate size for a catastrophe fund or needed level of reinsurance.

3. Require SORM to pay most indemnity benefits by direct deposit.

The bill requires the direct deposit of indemnity benefits instead of paper checks, saving time, effort, and money for both the State and injured workers. State employees will receive indemnity benefits through the same method they have selected for payroll, so that those currently paid salary by check will be able to receive benefits by check.

4. Require state agencies to develop business continuity plans with SORM's consultation and evaluation.

Senate Bill 908 requires all state agencies to develop business continuity plans that include detailed steps for resumption of essential services such as scheduling an emergency workforce, coordination with public authorities, management of media, customer services delivery, and assessing immediate financial or operational needs. Agencies involved in the initial delivery of emergency services as members of the Emergency Management Council or part of the Department of Information Resources state data center project already have plans in place that meet this requirement and are only required to forward their plans to SORM.

The bill requires SORM to consult with state agencies on business continuity plans by developing guidelines, model plans, and training state agencies. SORM will also evaluate state agencies' business continuity plans for completeness and viability and biennially report to the Legislature on the efforts of state agencies to develop and maintain business continuity plans.

5. Require SORM, the Texas Facilities Commission, and the State Fire Marshal's Office to exchange safety information.

The bill requires the three agencies with safety-related responsibilities to improve communications with each other. The bill requires a Memorandum of Understanding (MOU) between SORM and the Texas Facilities Commission and adds SORM to an existing MOU between the Facilities Commission and the State Fire Marshal's Office. These MOUs will detail the type, amount, and frequency of safety-related information that should be shared. The bill also requires designated points of contact within each agency to coordinate information.

6. Continue the State Office of Risk Management for 12 years.

Senate Bill 908 continues SORM as an independent agency, responsible for providing workers' compensation, risk management, and insurance purchasing services to state agencies for the standard 12-year period, until 2019.

Provision Added by the Legislature _____

7. Protect personal information in workers compensation claim files from disclosure.

The Legislature added a provision to the bill that provides that state employee information in or derived from SORM workers' compensation claim files is confidential and may not be disclosed, except as provided by law.

Fiscal Implication Summary _____

Senate Bill 908 contains two provisions that will have a net cost to SORM for the 2008-09 biennium. Requiring SORM to expand case management to facilitate the return to work of injured employees will have an annual cost of \$111,698 during the first biennium to hire two case managers, and a one-time cost of \$3,000 for computer equipment. By fiscal year 2010, SORM will reduce this annual cost to \$55,849 by eliminating one of the new positions and relying more on its newly instituted workers' compensation network. Savings in indemnity and medical benefits will offset these costs, but these savings will accrue to state agencies and not directly to SORM. Because SORM did not receive additional funding for this provision the agency will have use existing resources to cover these costs.

Requiring SORM to study how the State could best prepare to pay workers' compensation claims resulting from a disaster will have a one-time cost of \$20,000 for consulting services. Consultants

will analyze the costs of potential disasters and assess the needed size of a catastrophe fund or level of reinsurance. The contract will be paid from state agency assessments for workers' compensation insurance.

Changing the method that SORM uses to pay indemnity benefits to injured state employees from mailing paper checks to direct deposit will have a positive fiscal impact of \$74,700 annually. SORM will directly deposit 83 percent of the 50,000 checks it currently mails at a saving of \$1.80 for each payment converted from paper check to direct deposit.

Requiring SORM to consult with state agencies on business continuity plans will result in an annual cost of \$61,786 to hire an additional employee to perform the consultations and provide training. The bill will have an additional one-time cost of \$1,500 for associated computer equipment. However, SORM will recover these costs through interagency contracts with agencies receiving these services.



Office of Rural Community Affairs

Staff Contact: *Christian Ninaud*

H.B. 2542 Kolkhorst, et al. (Estes)

Summary

The Office of Rural Community Affairs (ORCA) was created in 2001 to assist rural communities with enhancing their quality of life and supporting their ongoing contributions to Texas' prosperity. ORCA's main functions include providing direction for state policy on rural development, administering Texas' federally funded rural Community Development Block Grant (CDBG) program, and administering several rural health programs. In fiscal year 2006, ORCA operated with a budget of \$128 million, including \$106 million in federal funds, and a staff of 70 employees.

House Bill 2542 continues ORCA, narrowing its mission and creating a new Board to more effectively serve as a voice for rural concerns and issues. The bill also contains the Sunset Commission's recommendations requiring ORCA to evaluate the rural CDBG program and more closely coordinate with the Texas Department of Agriculture. The list below summarizes the major provisions of H.B. 2542, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Office of Rural Community Affairs for six years with a refocused mission and new leadership to better serve rural Texas.
2. Evaluate Texas' rural Community Development Block Grant program.
3. Improve ORCA's coordination with the Texas Department of Agriculture.

Sunset Provisions

1. Continue the Office of Rural Community Affairs for six years with a refocused mission and new leadership to better serve rural Texas.

House Bill 2542 narrows ORCA's mission by requiring the agency to serve as a clearinghouse for information on rural programs, identify and prioritize key rural issues and policy concerns, and make recommendations to the Legislature to address the identified concerns. The bill continues ORCA for six years, rather than the four-year Sunset date originally proposed by the Sunset Commission.

The bill also directs ORCA to assist communities in four key areas: economic development, community development, rural health, and rural housing. The Legislature modified this Sunset provision, adding rural housing and removing natural resources.

House Bill 2542 replaces ORCA's Executive Committee with a new 11-member Board, composed of the following:

- ◆ two public members and two elected local rural officials or city or county employees, appointed by the Governor;
- ◆ three public members appointed by the Governor from a list provided by the Lieutenant Governor;
- ◆ three public members appointed by the Governor from a list provided by the Speaker of the House; and
- ◆ the Commissioner of Agriculture, or designee, as a voting, ex officio member.

The Legislature modified the Sunset provision relating to the Board by removing the direct appointments by the Lieutenant Governor and the Speaker of the House, and replacing them with Governor appointed members selected from lists submitted by the Lieutenant Governor and the Speaker of the House. House Bill 2542 also requires that all appointed members reside in rural cities or counties, and authorizes the Governor to appoint the presiding officer of the Board.

To allow the Board to focus on rural policy issues, the bill strengthens the role of ORCA's State Review Committee. The Committee, which advises the agency on administration of the rural CDBG program, will review and approve all rural CDBG grant applications, with the Board hearing any appeals.

2. Evaluate Texas' rural Community Development Block Grant program.

House Bill 2542 requires ORCA to work with the Texas Department of Agriculture (TDA) to evaluate Texas' administration of the rural CDBG program. At a minimum, the evaluation must include combining funding categories, simplifying the grant process, and reviewing aged contracts to close them out. ORCA must make non-statutory changes to the program as quickly as possible, and report to the 81st Legislature on any statutory changes needed to make further improvements.

3. Improve ORCA's coordination with the Texas Department of Agriculture.

The bill requires ORCA to cross-train its staff with TDA's staff to ensure the agencies are knowledgeable about their respective rural programs, and allows ORCA to base employees working outside of the central office in TDA's offices.

Fiscal Implication Summary _____

House Bill 2542 will not have a fiscal impact to the State.



Office of State-Federal Relations

Staff Contact: *Chloe Lieberknecht*

S.B. 903 Brimer (Kolkhorst)

The Office of State-Federal Relations (the Office) acts as the State's advocate in Washington, D.C. to help promote and protect the interests of Texas at the federal level. The Office's main functions include: prioritizing a federal agenda for Texas, advocating for federal funding and policy decisions favorable to Texas, and promoting communication and building relationships between the state and federal governments. The Office operates with a budget of about \$900,000, with five staff in Washington, D.C., and one in Austin.

The Sunset Commission recommended abolishing the agency as an independent state agency and transferring its functions to the Office of the Governor, as well as requiring the Office to adhere to strict contracting guidelines, if the Office contracted with outside federal-level consultants. The Commission also recommended requiring Texas state agencies and political subdivisions to report contracts with federal-level consultants to the Office. These recommendations and others were incorporated into Senate Bill 903.

The bill passed by the Senate reflected the Sunset Commission's recommendations, with a few clarifying changes. The House amended the bill significantly, including maintaining the Office as an independent agency, administratively attaching it to the Office of the Governor, and prohibiting contracting with federal-level consultants. The House also added new provisions to increase the Legislature's involvement with the Office. The bill went to conference committee, but the committee did not come to an agreement regarding the bill's provisions. As a result, S.B. 903 was not passed by the Legislature.

The Office of State-Federal Relations was continued in separate legislation. House Bill 3249 continues the agency until 2009 and requires the Sunset Commission to focus its next review of the Office on the appropriateness of its previous recommendations to the 80th Legislature. Continuing the agency for two years will allow the Sunset Commission to re-examine the Office and make recommendations to the 81st Legislature.



Texas Structural Pest Control Board

Staff Contact: Karen Latta

H.B. 2458 B. Cook, et al. (Brimer)

Summary

The Legislature created the Texas Structural Pest Control Board (the Board) in 1971 to ensure that those who perform pest control activities in buildings, homes, and other structures are qualified, competent, and adhere to established professional standards. The Board has two primary functions: license commercial and non-commercial pest control professionals, and enforce the Texas Structural Pest Control Act and federal law through inspections and complaint investigations. With a staff of 29 employees and an annual budget of \$1.4 million, the Board currently licenses more than 16,000 pest control business and applicators.

House Bill 2458 abolishes the Structural Pest Control Board and transfers its functions to the Texas Department of Agriculture (TDA). The bill contains other recommendations of the Sunset Commission, including requiring TDA to develop a risk-based approach to inspections, a formal process for exam development, and more clear and consistent guidance for pesticide use in schools. The list below summarizes the major provisions of H.B. 2458, and a more detailed discussion follows.

Sunset Provisions

1. Abolish the Structural Pest Control Board and transfer its functions to the Texas Department of Agriculture.
2. Allow the Department of Agriculture to determine its inspection frequency based on an assessment of risk.
3. Require TDA to develop a formal process for licensing exam development and revision.
4. Improve the Integrated Pest Management Program to provide more clear and consistent guidance to schools.
5. Conform key elements of TDA's licensing and regulatory functions to commonly applied licensing practices.
6. Allow beekeepers to remove bees from structures without a pest control license, as long as they do not use pesticides.

Sunset Provisions

1. Abolish the Structural Pest Control Board and transfer its functions to the Texas Department of Agriculture.

House Bill 2458 abolishes the Board as an independent agency and transfers the regulation of the structural pest control industry to the Department of Agriculture. The Commissioner of Agriculture will be responsible for administering the Structural Pest Control Act, including licensing and taking enforcement action against pest control operators and providing information to licensees, school districts, and the public. The Legislature modified this provision by adding language to create a Structural Pest Control Service within TDA, require TDA to establish a consumer and industry telephone hotline, and require TDA to administer a mandatory continuing education program for licensees.

The bill also creates an advisory committee, with members appointed by the Agriculture Commissioner, to advise TDA on structural pest control issues. The Legislature modified this provision slightly to establish the advisory committee as a nine-member body with specific representation, including experts in structural pest control, the public, consumers, representatives of higher education, and the Department of State Health Services.

2. Allow the Department of Agriculture to determine its inspection frequency based on an assessment of risk.

House Bill 2458 requires TDA to conduct its inspection activities according to risk, instead of the current requirement to inspect all businesses every two years. The agency must inspect all businesses in their first year of operation and at least once every four years thereafter. However, the agency can shorten the inspection interval for any or all businesses as it determines necessary, especially for businesses with compliance problems. Further, the agency must inspect all school districts for compliance with Integrated Pest Management requirements at least every five years, and more frequently as it deems necessary.

3. Require TDA to develop a formal process for licensing exam development and revision.

House Bill 2458 requires TDA to create a written policy governing the exam process. The policy must prescribe procedures to improve the design and construction of licensing exams, the content of exams, the procedures in place to administer exams, and the process for evaluating exams that are in use.

4. Improve the Integrated Pest Management Program to provide more clear and consistent guidance to schools.

House Bill 2458 clarifies TDA's responsibility to identify which pesticides are suitable for use in schools and how those pesticides are to be used. The bill removes the statutory requirement for schools to restrict entry for 12 hours following all pesticide applications, and instead requires the

agency to establish guidelines appropriate for each type of pesticide in rule. The bill also removes the current requirement for the agency to list the specific pesticides that may be used, and instead requires TDA to adopt categories of pesticides with clear, easier-to-follow guidelines as to their use.

The bill requires TDA to develop clear regulations that correspond to each category of pesticide that include:

- ◆ the physical distance required between application sites and students at the time of application;
- ◆ record keeping and pesticide approval requirements;
- ◆ re-entry requirements; and
- ◆ posting regulations for indoor and outdoor pesticide use.

The bill requires school districts to inform TDA of the name, address, phone number, and email address of their Integrated Pest Management Coordinators, who are responsible for overseeing pest control on school property. Further, school districts have to inform the agency within 90 days when a new coordinator is appointed. House Bill 2458 also requires these school coordinators to complete six hours of continuing education every three years to keep them up-to-date on program requirements and changes in pest control practices.

5. Conform key elements of TDA's licensing and regulatory functions to commonly applied licensing practices.

House Bill 2458 includes eight provisions that bring the Structural Pest Control Act in line with standard licensing practices, consisting of the following.

- ◆ Requires TDA to clearly outline its enforcement process and make this information and information in complaint files accessible to licensees.
- ◆ Authorizes agency staff to administratively dismiss complaints and report these actions to the Commissioner of Agriculture.
- ◆ Authorizes the Commissioner of Agriculture to temporarily suspend a license.
- ◆ Authorizes TDA to issue cease-and-desist orders to stop the unlicensed practice of structural pest control.
- ◆ Grants TDA authority to immediately stop the use of banned pesticides.
- ◆ Requires TDA to make information on enforcement actions available to the public on the agency's website and in other appropriate publications.
- ◆ Eliminates licensing and administrative fee caps and authorizes the Commissioner of Agriculture to set fees in rule.
- ◆ Requires TDA to base delinquent license renewal fees on the standard renewal fee.

6. Allow beekeepers to remove bees from structures without a pest control license, as long as they do not use pesticides.

House Bill 2458 clarifies that the Structural Pest Control Act does not require beekeepers to obtain a pest control operator license to remove bees from structures. Existing statutory language provides that beekeepers may not use pesticides or electrical devices other than conventional bee smokers when removing bees from structures.

Fiscal Implication Summary _____

House Bill 2458 will not have a net fiscal impact to the State, but may have a cost to school districts. Abolishing the Structural Pest Control Board and transferring its functions to TDA will result in savings from reduced administrative costs and staff positions by taking advantage of the existing administrative structure of TDA. However, TDA will reinvest those savings into improving structural pest control regulation, such as purchasing vehicles and equipment for field inspectors and integrating licensing and enforcement data into the agency's information management systems.

Requiring Integrated Pest Management Coordinators to complete six hours of continuing education every three years may have a fiscal impact to the school districts that employ the coordinators. Each school district will have to cover the cost of the continuing education. The cost of this provision to individual school districts depends on the cost of continuing education opportunities and whether travel is necessary to attend training.



Teacher Retirement System of Texas

Staff Contact: Steve Hopson

H.B. 2427 Truitt, et al. (Whitmire)

Summary

Following voter passage of a constitutional amendment, the Legislature created the Teacher Retirement System of Texas (TRS) in 1937. The TRS Board of Trustees administers and operates a system to provide retirement, disability, death, and survivor benefits for 1.2 million Texas public and higher education employees, retirees, and beneficiaries; invests and manages the \$100.2 billion Pension Trust Fund held in trust to provide future benefits for members and their beneficiaries; and offers health and long-term care insurance to eligible public education employees, retirees, and their dependents. In 2006, TRS operated with a staff of 466 employees and an annual administrative budget of \$44.7 million.

House Bill 2427 contains the Sunset Commission's recommendations to improve TRS' ability to fairly and effectively deliver benefits and programs to educational employees and retirees. Because TRS is not subject to abolishment under the Sunset Act, the bill does not contain a continue provision. The list below summarizes the major provisions of H.B. 2427, and a more detailed discussion follows.

Sunset Provisions

1. Require TRS to provide equal access to retirement counseling services across the state.
2. Restructure TRS' disability retirement benefit program to ensure protection of Pension Trust Fund assets.
3. Grant TRS a greater range of oversight tools to adequately protect investments made by public education employees in 403(b) products.
4. Repeal the statutory requirement for TRS to conduct the Public School Employees' Health Coverage Comparability Study.

Sunset Provisions

1. Require TRS to provide equal access to retirement counseling services across the state.

House Bill 2427 requires TRS to offer in-person, individual member counseling in locations other than Austin, allowing members across the state to access the individual counseling services now offered by TRS only at its headquarters. To enable the most effective delivery of these services, the bill requires TRS to adopt policies regarding availability, timing, and scheduling of the counseling services. The bill also directs TRS to make these individual counseling services available in conjunction with scheduled group sessions and clarifies that the agency does not provide legal or financial advice.

2. Restructure TRS' disability retirement benefit program to ensure protection of Pension Trust Fund assets.

The bill clarifies that disability retirement is meant as hardship relief, not as a supplemental income program, and requires TRS to adjust benefits for disability retirees who earn incomes exceeding their previous education salary. Under this requirement, TRS will adopt rules to reduce or limit benefits based on earned income, and provide for benefits to be reinstated when appropriate. To avoid loss of health insurance, the statute will allow disability retirees, with at least 10 years of service credit, who lose benefits under this stipulation, to continue enrollment in TRS-Care by paying the appropriate premium. The bill also authorizes TRS to require income reports from disability retirees who earn incomes in excess of limits set by TRS.

3. Grant TRS a greater range of oversight tools to adequately protect investments made by public education employees in 403(b) products.

House Bill 2427 requires certified 403(b) investment companies to register products offered for sale to Texas educators. This provision requires sellers of 403(b) investment products to disclose the registration status of the products to potential purchasers and adds fraudulent sale of unregistered 403(b) investment products to the list of prohibited practices in the Deceptive Trade Practices Act. The legislation requires TRS to list all registered 403(b) products on its website along with information on fees and other relevant consumer information. The bill requires educational employers to ensure that a selected investment product is listed on TRS' website before processing a salary reduction agreement. The bill also grants TRS the authority to conduct investigations of certified companies and registered products to determine compliance with the statute.

4. Repeal the statutory requirement for TRS to conduct the Public School Employees' Health Coverage Comparability Study.

With the expansion of TRS Active-Care, the bill eliminates an outdated requirement for TRS to analyze health coverage data submitted by public education entities, certify coverage that is comparable, and produce the Comparability Study every other year.

Fiscal Implication Summary

House Bill 2427 will result in a biennial savings of \$200,000 to the General Revenue Fund and a cost of \$2,866 to the Pension Trust Fund. The fiscal impact of specific provisions is summarized below.

The bill's provisions related to providing individual retirement counseling outside of Austin will result in a first-year cost of \$154,085 and subsequent annual costs of \$148,085. These costs will be borne by the Pension Trust Fund and are not reflected in the five-year fiscal impact table below. In addition, TRS received an increase in its FTE cap of three positions to perform these functions.

The bill's provisions to remove disability retirees who are gainfully employed from TRS-Care will have a positive fiscal impact to the Pension Trust Fund. Because the number of disability retirees who earn excessive incomes is unknown, the exact fiscal impact is difficult to estimate. Assuming that 5 percent of TRS disability retirees would be affected, the provision will yield a \$500,000 annual savings to the Pension Trust Fund. Offsetting this savings is a first-year cost of \$475,348 for TRS to implement the provisions and costs of \$225,348 in each subsequent year. These savings are not reflected in the five-year fiscal impact table below because they do not accrue to funds belonging to the State. These provisions also require an increase in the agency's FTE cap of five staff positions.

House Bill 2427's provisions related to 403(b) product registrations will result in a neutral fiscal impact as TRS will be able to raise additional funds through fees associated with product registration.

Finally, eliminating the unnecessary Health Coverage Comparability Study will result in a positive fiscal impact of \$100,000 per year to the General Revenue Fund and a reduction in TRS' FTE count of one half a full-time equivalent employee.

<i>Fiscal Year</i>	<i>Savings to the General Revenue Fund</i>	<i>Change in Staff Positions From FY 2007</i>
2008	\$100,000	+7.5
2009	\$100,000	+7.5
2010	\$100,000	+7.5
2011	\$100,000	+7.5
2012	\$100,000	+7.5



Texas Veterans Commission

Staff Contact: Kelly Kennedy

H.B. 3426 Flynn, et al. (Shapleigh)

Summary

The Texas Legislature established the Texas Veterans Commission (TVC) in 1927 as the lead state agency for veterans affairs, providing benefit information and assistance to Texas veterans. For nearly 80 years, TVC focused solely on providing claims assistance and benefit information for veterans filing claims with the U.S. Department of Veterans Affairs (VA), until 2005, when the Legislature transferred the Veterans Employment Services program from the Texas Workforce Commission to TVC. In addition, in 2006, TVC was designated by the Governor as the State Approving Agency for Veterans' Education, instead of the Workforce Commission. Today, TVC administers its programs with a budget of about \$15.3 million, derived from General Revenue and federal funds, and a staff of more than 300, most of whom are located in field offices throughout the state.

House Bill 3426 continues TVC for six years and contains the Sunset Commission's recommendations to help focus the agency's efforts to meet the demands of today's returning veterans. The list below summarizes the major provisions of H.B. 3426, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Texas Veterans Commission for six years.
2. Improve TVC's rulemaking process, enabling the agency to respond to changes in its mission and the veterans it serves.
3. Provide TVC with management tools needed to ensure the highest quality claims counseling and representation services for Texas' veterans.
4. Strengthen the TVC's relationship with county service officers to more effectively reach veterans at the local level.

Sunset Provision Adopted in Other Legislation

1. Require TVC and the Veterans' Land Board to coordinate a statewide approach to making Texas veterans aware of available benefits and services.

Sunset Provisions

1. Continue the Texas Veterans Commission for six years.

The Legislature modified H.B. 3426 to continue TVC as an independent state agency for six years, instead of four, allowing the Commission additional time to assume its new functions – operating the Veterans Employment Services program and acting as the State Approving Agency for Veterans' Education – while providing the Legislature an opportunity to re-evaluate the Commission's progress and performance, before the standard 12-year Sunset renewal period.

2. Improve TVC's rulemaking process, enabling the agency to respond to changes in its mission and the veterans it serves.

The bill requires TVC to develop a process for providing stakeholders with the opportunity for a stronger role in the development of agency rules and policies, and for appointing advisory committees under the agency's delegated authority provided in the Administrative Procedure Act. If the Commission chooses to appoint advisory committees, the Commission must adopt rules regarding these committees, including rules that govern the purpose, role, and goals of the committee; size and quorum requirements; and qualifications of the members and selection criteria.

3. Provide TVC with management tools needed to ensure the highest quality claims counseling and representation services for Texas' veterans.

House Bill 3426 requires TVC to develop criteria, subject to the Commission's approval, to improve and streamline the claims assistance process. The standard procedures for helping veterans file claims must include:

- ◆ criteria for assessing the completeness and legal sufficiency of claims;
- ◆ a process for expediting claims based on specified needs and hardships;
- ◆ procedures for counseling veterans on merits and potential drawbacks of pursuing claims;
- ◆ steps needed to ensure adequate documentation and development of a claim;
- ◆ criteria for evaluating whether to appeal the VA's benefit; and
- ◆ a requirement to report to the VA on claims known to contain false or deceptive information.

The bill also requires TVC to consult with the VA when developing these procedures to ensure that agency staff are not improperly involved in adjudicating claims. Additionally, in assessing cases, TVC must better prioritize its efforts to help veterans with claims when appropriate, and help veterans find alternative sources for obtaining claims assistance services as necessary.

House Bill 3426 also requires TVC to work with the VA to establish broad areas of cooperation between the agencies to help streamline, and more closely align TVC's service delivery with the VA's own processes, such as expediting hardship cases and appeals, and providing needed data to better track the status and outcomes of claims.

4. Strengthen the TVC's relationship with county service officers to more effectively reach veterans at the local level.

House Bill 3426 requires TVC to more closely coordinate with county service officers (CSOs), and the county officials who oversee them. The bill requires the Commission to develop and adopt procedures that address broad areas of cooperation between the Commission, CSOs, and counties in serving veterans, and TVC's responsibilities in overseeing claims and appeals prepared by CSOs. The Legislature modified the provision to clarify that TVC does not have oversight authority over CSOs and that information about claims filed by CSOs will only be provided to county officials upon request. The Legislature also modified the provision to clarify that TVC employees providing technical assistance to CSOs will only review claims filed by CSOs where TVC acts as the veteran's agent under power of attorney.

The bill also requires TVC to develop and adopt standard course materials and exams for CSO certification and accreditation. The agency must maintain and regularly update its course materials, keeping all materials in a central location and providing easy accessibility to all field staff and CSOs via the Internet. In creating this curriculum, TVC must consult with the VA to ensure the training material is accurate, up-to-date, and meets the VA's requirements. TVC must also seek input from accredited CSOs, who work as an extension of TVC, to ensure that training topics cover veterans' issues emerging at the local level.

Finally, H.B. 3426 removes the statutory requirement for CSOs to attend at least one training conference each year and requires TVC to develop alternative ways of ensuring that CSOs meet initial and annual training requirements, including Internet-based seminars, via videoconference, or in cooperation with training conducted by the VA. The bill also requires TVC to develop a training handbook containing practical instruction and case examples regarding how to best serve the needs of veterans and their families while accurately supporting, completing, and filing claims; checking the claims progress; and pursuing appeals as necessary.

Sunset Provision Adopted in Other Legislation

1. Require TVC and the Veterans' Land Board to coordinate a statewide approach to making Texas veterans aware of available benefits and services.

The Legislature did not adopt as part of H.B. 3426 the provision requiring TVC and the Veterans' Land Board to coordinate development of an outreach strategy that offers veterans information about all benefits and services available to them. However, House Bill 3140, the Veterans' Land Board Sunset bill, contains provisions, modified by the Legislature, that apply to both the Veterans' Land Board and the Veterans Commission, and address the need to coordinate statewide outreach to Texas veterans.

Fiscal Implication Summary

House Bill 3426 will not have a significant fiscal impact to the State.



Veterans' Land Board

Staff Contact: *Chloe Lieberknecht*

H.B. 3140 Flynn, et al. (Shapleigh)

Summary

Texas voters established the Veterans' Land Board (VLB) through a constitutional amendment in 1946 to honor Texas veterans and their families by providing loans to purchase land. Today VLB operates within the structure of the General Land Office and provides veterans with three major benefits, including below-market interest rate loans for purchasing raw land, homes, and home improvement projects; long-term care nursing homes for veterans and their families; and veterans cemeteries. VLB administers its three programs with a budget of about \$24 million, derived from investment income, and has a staff of 83.

The Board is subject to Sunset review, but not to abolishment. House Bill 3140 contains the Sunset Commission's recommendations to improve coordination between VLB and Texas Veterans Commission (TVC). The list below summarizes the major provisions of H.B. 3140, and a more detailed discussion follows.

Sunset Provisions

1. Require the Veterans' Land Board and the Texas Veterans Commission to coordinate a statewide approach to making Texas veterans aware of available benefits and services.
2. Require the Veterans' Land Board to obtain and approve relevant audit plans and publicly discuss internal audit reports.

Sunset Provisions

1. Require the Veterans' Land Board and the Texas Veterans Commission to coordinate a statewide approach to making Texas veterans aware of available benefits and services.

Instead of coordinating the operation of one call center, the Legislature modified the Sunset provision to consolidate both VLB's and TVC's call centers at VLB. House Bill 3140 requires VLB to operate the newly consolidated call center, and provides for the transfer of full-time equivalent positions currently performing those duties at TVC, as well as associated appropriations, to the Board. The bill also provides that VLB and TVC must establish a transition plan for the transfer of the call center to VLB. The Legislature further modified this provision to require call center employees to disseminate benefit and service information to veterans.

The bill requires VLB and TVC to cooperatively create a comprehensive brochure that provides information about all available veterans benefits and services. The Legislature modified the Sunset provision to require VLB and TVC to cooperate in integrating web services to make information about veterans benefits easily accessible to all veterans. House Bill 3140 further requires VLB and TVC to jointly plan and present a total benefits package to veterans at all benefits seminars and meetings. Finally, H.B. 3140 requires VLB and TVC to modify their existing Memorandum of Understanding to specify the guidelines necessary to coordinate veterans benefit awareness activities.

2. Require the Veterans' Land Board to obtain and approve relevant audit plans and publicly discuss internal audit reports.

House Bill 3140 requires VLB to review and approve, during public Board meetings, the VLB-related components of the General Land Office's (GLO) internal audit plans. The bill also requires the Board to review and discuss internal audit reports. The GLO Internal Auditor must submit the parts of the audit plan relating to VLB to the Board, as well as report to the Board on the results of audits and follow-up audits that pertain to VLB functions.

Fiscal Implication Summary

House Bill 3140 will not have a fiscal impact to the State. Requiring the Veterans' Land Board to coordinate with the Texas Veterans Commission on outreach efforts, including call centers, databases, direct mail efforts, a joint website and brochure, and joint seminars will result in some administrative savings and efficiencies to both agencies. Any such savings or efficiencies will be allocated to the agencies' marketing outreach and communications functions for the purpose of reaching more veterans.



Texas Veterinary Medical Diagnostic Laboratory

Staff Contact: Kelly Kennedy

H.B. 2024 Kolkhorst (Estes)

Summary

The Texas Veterinary Medical Diagnostic Laboratory (TVMDL) was created in 1967 to perform diagnostic testing and identify conditions and diseases affecting animal health so that the appropriate state or federal regulatory agency may act to avert potential epidemics. TVMDL's main functions include: providing diagnostic testing services and disease surveillance, conducting sampling testing for poultry flocks under the Texas Pullorum-Typhoid Program, and performing drug testing for horses and greyhounds participating in pari-mutuel races. TVMDL operates with an annual budget of about \$12 million, and a staff of 150. In fiscal year 2006, TVMDL performed more than 1.1 million tests.

House Bill 2024 continues TVMDL but clarifies that it is part of the Texas A&M University System and removes it from future Sunset review. The bill also contains the Sunset Commission's recommendations to provide the agency with a statutory framework that balances the agency's need for flexibility with the Legislature's need for accountability. The list below summarizes the major provisions of H.B. 2024, and a more detailed discussion follows.

Sunset Provisions

1. Continue the Texas Veterinary Medical Diagnostic Laboratory as an independent agency, but remove the agency from Sunset review.
2. Clarify TVMDL's powers and duties in statute, and require the agency to provide notice and opportunity for public comment when developing its fee schedule.

Provision Added by the Legislature

3. Designate TVMDL as the State Plan Coordinator for the National Poultry Improvement Plan.

Sunset Provisions

1. Continue the Texas Veterinary Medical Diagnostic Laboratory as an independent agency, but remove the agency from Sunset review.

The Legislature modified the Sunset provision continuing TVMDL to clarify that the agency operates as a part of the Texas A&M University System. The Legislature further modified this provision to remove TVMDL's Sunset date, continuing the agency without being subject to future Sunset review.

2. Clarify TVMDL's powers and duties in statute, and require the agency to provide notice and opportunity for public comment when developing its fee schedule.

House Bill 2024 establishes TVMDL's current mission and functions in law, providing a clearer picture to policymakers, budget writers, and the public as to what the agency does. Specifically, TVMDL's responsibilities include:

- ◆ providing laboratory testing to aid in the identification of diseases;
- ◆ providing tests required for intrastate, interstate, or international animal shipments;
- ◆ identifying disease epidemics;
- ◆ generally assisting livestock owners and veterinarians with problems associated with disease identification, diagnosis, and treatment;
- ◆ reporting disease findings to the appropriate state or federal agencies as specified in statute or rule;
- ◆ providing information the agency deems appropriate to veterinarians, animal owners, and the public regarding animal disease outbreaks and other animal health matters; and
- ◆ performing other diagnostic services or activities as TVMDL determines necessary to address new and emerging threats.

The bill also specifies that TVMDL may provide diagnostic services for companion animals and out-of-state clients only when staff, facilities, and supplies are not required for in-state livestock testing. The bill also improves the public's ability to participate in TVMDL's fee development process, providing greater accountability for the agency's decisions that affect the public. Specifically, TVMDL must provide 30 days' notice of the proposed fee on its website, as well as in its monthly newsletter. In addition, TVMDL must give all interested persons a reasonable opportunity to submit written comments. Changes to the fee schedule may occur only after TVMDL provides appropriate notice and fully considers all public comment received.

Provision Added by the Legislature _____

3. Designate TVMDL as the State Plan Coordinator for the National Poultry Improvement Plan.

The Legislature added a provision to designate TVMDL as the State Plan Coordinator for the National Poultry Improvement Plan (NPIP). TVMDL already has the authority to control and eradicate two of the diseases covered by NPIP. House Bill 2024 expands this authority to have TVMDL's poultry program administrator serve as the state coordinator for the plan.

Fiscal Implication Summary _____

House Bill 2024 will not have a fiscal impact to the State.

ACROSS-THE-BOARD RECOMMENDATIONS



Across-the-Board Recommendations

This report section briefly describes each of the Sunset across-the-board recommendations (ATBs), with a chart detailing the application of the ATBs to each of the agencies currently under review for the 80th Legislature.

The Sunset Commission adopts across-the-board recommendations as standards for state agencies, reflecting criteria in the Sunset Act designed to ensure open, responsive, and effective government. The Sunset Commission applies across-the-board recommendations to every state agency reviewed, unless a clear reason to exempt the agency is identified. Some Sunset ATBs address policy issues related to an agency's policymaking body, such as requiring public membership on boards or allowing the Governor to designate the chair of a board. Other Sunset ATBs require agencies to set consistent policies in areas such as how to handle complaints and how to ensure public input.

Across-the-Board Recommendations

1. Public Membership – Require public membership on state agency policymaking bodies.

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 provision gives the general public a direct voice in the activities of an agency through representation on the Board. Having members of the general public on the Board, as close to one-third as possible, would ensure representation.

2. Conflicts of Interest – Require provisions relating to conflicts of interest.

An agency may have 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. These provisions prevent these potential conflicts.

3. Unbiased Appointments – Require unbiased appointments to the agency's policymaking body.

Policymaking bodies, whose appointees have been chosen on an impartial and unbiased basis, can help ensure that state agencies operate fairly and impartially.

4. Governor Designates Presiding Officer – Provide that the Governor 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 recent years, the Legislature has routinely authorized the Governor to

appoint the presiding officer of state policymaking bodies to increase state agencies' accountability. Using this approach would ensure that the Legislature's standard policy is applied to every agency undergoing Sunset review.

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

This provision specifies that it is grounds for removal of a member if appointment requirements for members of a policymaking body are not met. This provision also clarifies that if grounds for removal of a member exist, actions taken by the policymaking body are still valid.

6. Board Member Training – Require training for members of policymaking bodies.

Members of policymaking bodies should be provided with adequate information and training to allow them to properly discharge their duties. This provision establishes the type of training and the information to be included.

7. Separation of Functions – Require separation of policymaking and agency staff functions.

This provision requires the policymaking body to adopt policies defining its role of setting agency policy. The executive director/administrator should be responsible for managing the agency's day-to-day activities.

8. Public Input – Provide for public testimony at meetings of the policymaking body.

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

9. Complaint Information – Require information to be maintained on complaints.

State agencies should maintain adequate information about complaints received. This provision would require that documentation be maintained on all complaints received by the agency; and that all parties to a complaint are informed about agency complaint investigation procedures, and the status of the complaint until resolution.

10. Technology Use – Require agencies to use technology to increase public access.

Many state agencies are slow to implement technological solutions to their business processes because of a built-in bias in favor of traditional ways of doing business. Despite this reluctance, new technology can improve the ability of state agencies to deliver services to clients, provide information to the public, and reduce the costs of providing services. This provision requires agency boards to ensure the effective use of technology.

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

The Legislature has established clear authority for the use of alternative procedures for rulemaking and dispute resolution by state agencies. This provision ensures that each agency develops a written, comprehensive plan that encourages these procedures; and applies those procedures to its rulemaking, internal employee grievances, inter-agency conflicts, contract disputes, actual or potential contested matters, and other appropriate potential conflict areas.

Application of ATBs to Agencies Currently Under Review

For the agencies currently under Sunset review for the 80th Legislative Session, the Sunset Commission evaluated and applied each of the ATBs where appropriate. If the standard approach did not work, the Sunset Commission modified the language 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 chart on the following page details the application of ATBs to agencies under review in the 80th Legislative Session. Because the Sunset bill for the Office of State-Federal Relations did not pass, the agency is not shown in the chart. Also, the Legislature abolished the Structural Pest Control Board and did not apply ATBs to the agency's new structure.

Sunset Across-the-Board Recommendations 2007	<i>Public Membership</i>	<i>Conflicts of Interest</i>	<i>Unbiased Appointments</i>	<i>Governor Designates Presiding Officer</i>	<i>Grounds for Removal</i>	<i>Board Member Training</i>	<i>Separation of Functions</i>	<i>Public Input</i>	<i>Complaint Information</i>	<i>Technology Use</i>	<i>Alternative Dispute Resolution</i>
Alcoholic Beverage Commission, Texas	N	U	U	U	U	A	A	S	M	A	A
Animal Health Commission, Texas	U	U	S	S	U	U	S	S	U	A	A
Arts, Texas Commission on the	M	U	S	S	U	U	S	S	U	A	A
Criminal Justice, Texas Department of	S	S	S	S	S	S	S	S	S	A	A
Correctional Managed Health Care Committee	S	S	S	S	S	S	S	S	M	A	M
Higher Education Tuition Board, Prepaid	N	M	S	N	M	U	S	S	U	A	N
Historical Commission, Texas	U	U	S	S	S	U	S	S	U	A	A
Library and Archives Commission, Texas State	S	U	S	S	U	U	S	S	A	A	A
Nurse Examiners, Board of	U	U	S	S	U	U	S	S	M	A	A
Pardons and Paroles, Board of	S	S	S	S	U	S	S	M	M	A	M
Real Estate Commission, Texas	S	U	S	S	U	A	U	S	M	A	A
Risk Management, State Office of	M	A	A	A	U	U	A	A	A	A	A
Rural Community Affairs, Office of	N/A	S	S	A ¹	S	U	S	S	U	A	A
Teacher Retirement System of Texas	S	U ²	S	S	U	M	S	S	M	A	M
Veterans Commission, Texas	M ³	M ⁴	U	A	U	A	A	A	A	A	A
Veterans' Land Board	N	M	U	N	U	A	N	S	A	A	M
Veterinary Medical Diagnostic Laboratory, Texas	N/A	M	N/A	N/A	N/A	N/A	N/A	N/A	A	A	A

A – apply; M – modify; N – do not apply; N/A – not applicable; S – already in statute; U – update

¹ Provision included in the Sunset Commission's recommendation to replace the Office of Rural Community Affairs's Executive Committee with a new Board.

² Provision modified by the Legislature to prohibit only paid officers of trade associations, instead of any officer, from serving as a trustee or an employee of the Teacher Retirement System.

³ Provision modified by the Legislature to clarify that Commission members are not prohibited from serving on the Texas Veterans Commission if they or their spouse serve in a policymaking role with a veterans service organization.

⁴ Provision modified by the Legislature to clarify that Commission members are not prohibited from serving on the Texas Veterans Commission if they or their spouse have financial ties to a veterans service organization.

APPENDIX



Appendix: Sunset Review Schedule – 2009

General Government

Facilities Commission, Texas¹
State-Federal Relations, Office of
Transportation, Texas Department of

Natural Resources

Agriculture, Texas Department of
Boll Weevil Eradication Foundation, Board of Directors of the Official Cotton Growers'
Parks and Wildlife Department, Texas
Prescribed Burning Board
Texas-Israel Exchange Fund Board

Regulatory

Credit Union Commission
Equine Research Account Advisory Committee
Insurance, Texas Department of
Insurance Counsel, Office of Public
Medical Board, Texas²
Racing Commission, Texas
Residential Construction Commission, Texas
Tax Professional Examiners, Board of

Business and Economic Development

Housing Corporation, Texas State Affordable

Public Safety and Criminal Justice

Fire Protection, Texas Commission on
Jail Standards, Commission on
Juvenile Probation Commission, Texas
Law Enforcement Officer Standards and Education, Commission on
Military Preparedness Commission, Texas
Polygraph Examiners Board
Private Security Board, Texas
Public Safety, Texas Department of
Youth Commission, Texas

¹ The Sunset Commission will conduct a study of the Texas Facilities Commission as specified in H.B. 3560.

² The Sunset Commission will conduct a special review of the Texas Medical Board as specified in H.B. 3249.

