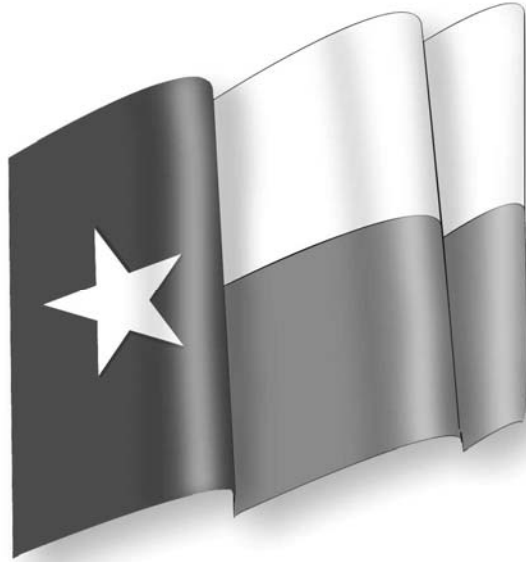


SUNSET COMMISSION DECISIONS



Texas Veterinary Medical Diagnostic Laboratory

May 2006

Agency Information

Agency at a Glance

The Texas Veterinary Medical Diagnostic Laboratory (TVMDL) performs diagnostic testing to identify animal diseases so that the appropriate state or federal regulatory agency may act to avert potential epidemics. The Legislature created TVMDL in 1967 to provide laboratory services that aid in the identification of diseases; perform tests required for shipments of animals; and identify potential epidemics through disease surveillance. TVMDL's current mission is to aid and educate the animal industries of Texas in identifying and preventing animal diseases, nutritional deficiencies, and intoxications so as to make productive use of the state's natural resources. Through its diagnostic testing, TVMDL helps provide tests for national and international shipment of animals and their products, and helps protect public health by identifying those diseases transmissible from animals to humans. In addition, the agency's mission is to facilitate the economic growth of the state by providing the necessary drug and residue tests for the pari-mutuel racing industry.

To accomplish its mission, the Texas Veterinary Medical Diagnostic Laboratory:

- ◆ provides diagnostic testing services and disease surveillance;
- ◆ conducts sampling and testing under the Texas Pullorum-Typhoid Program; and
- ◆ performs drug testing of horses and greyhounds participating in pari-mutuel races.

Key Facts

- ◆ **Funding.** In fiscal year 2005, TVMDL operated on a \$12.2 million budget. It received approximately \$4.7 million from the General Revenue Fund, \$7.1 million in fee revenue from sales of diagnostic services, and about \$400,000 in federal funds. TVMDL's budget for fiscal year 2006 is \$11 million.
- ◆ **Staffing.** The Texas Veterinary Medical Diagnostic Laboratory has 155 employees. A total of 108 employees work in the central laboratory, located in College Station. The remaining 47 employees work in satellite laboratories located in Amarillo, Center, and Gonzales.
- ◆ **Diagnostic Testing and Surveillance.** TVMDL diagnoses animal diseases from specimens submitted by animal owners or veterinarians, and performs surveillance of disease trends in the state. In 2005, the agency performed more than one million diagnostic tests. TVMDL also performs disease surveillance by tracking diagnostic results to provide critical data to notify veterinarians and animal owners of emerging animal disease trends.
- ◆ **Texas Pullorum-Typhoid Program.** TVMDL administers the Texas Pullorum-Typhoid Program by monitoring flocks to eliminate pullorum-typhoid in Texas poultry. In the past five years, TVMDL tested approximately 10,000 flocks and 400,000 individual birds.
- ◆ **Pari-mutuel Drug Testing.** In accordance with the Texas Racing Act, TVMDL provides pari-mutuel drug testing for the Texas Racing Commission, performing tests for prohibited substances on approximately 20,000 greyhound samples and 8,000 horse samples each year.

Issues/Recommendations

Issue 1 Texas Has a Continuing Need for the Texas Veterinary Medical Diagnostic Laboratory.

Recommendation

Change in Statute

1.1 Continue the Texas Veterinary Medical Diagnostic Laboratory for 12 years.

The recommendation would continue the Texas Veterinary Medical Diagnostic Laboratory as an independent agency responsible for providing diagnostic services and disease surveillance.

Fiscal Implication

If the Legislature continues the current functions of TVMDL, the agency’s annual appropriation of \$11 million would continue to be required for its operation.

Responses

Agency

TVMDL agrees with the conclusion of the Sunset Commission staff report that the State of Texas has a continuing need for TVMDL and the service it provides to the citizens of Texas. TVMDL agrees with the Sunset Commission staff that TVMDL remain as an independent state agency that is part of the Texas A&M University System and under the jurisdiction and supervision of the Board of Regents of the Texas A&M University System and located on the Texas A&M University campus in College Station, Texas. (Lelve G. Gayle, D.V.M., Associate Vice Chancellor and Executive Director – Texas Veterinary Medical Diagnostic Laboratory; John D. White, Chairman – Board of Regents, Texas A&M University System)

For

James C. Grimm, Executive Vice President – Texas Poultry Federation, Round Rock

Jon Johnson, Associate Commodities Director – Texas Farm Bureau, Waco

Roland Lenarduzzi, D.V.M., Past President – Texas Veterinary Medical Association, Manvel

Against

None received.

Recommended Action: Adopt Recommendation 1.1.

Commission Decision: Adopted Recommendation 1.1.

Issue 2 TVMDL's Current Statute Is an Inaccurate Reflection of Its Functions, Resulting in Decreased Accountability to the Legislature and the Public.

Recommendations

Change in Statute

2.1 Clarify TVMDL's current powers and duties in statute.

This recommendation would establish TVMDL's current mission and functions in law to provide a clearer picture to policymakers, budget writers, and the public as to what the agency does, and help tie specific funding decisions to those functions. The statute would lay out TVMDL's responsibilities regarding disease diagnostics, surveillance, and reporting, but would provide enough flexibility for the agency to continue to respond to new diagnostic demands as they arise. Specifically, TVMDL's responsibilities would 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;
- ◆ providing diagnostic services for companion animals and out-of-state clients only when staff, facilities, and supplies are not required for in-state livestock testing;
- ◆ reporting diseases to the Texas Animal Health Commission, Texas Department of State Health Services, and other state or federal agencies as specified in statute or rule;

- ◆ performing other diagnostic services or activities as TVMDL determines necessary to address new and emerging threats; and
- ◆ providing information to veterinarians, animal owners, and the public developed through TVMDL's diagnostic testing efforts, and other news and information the agency deems appropriate.

These provisions reflect TVMDL's existing activities that are not currently detailed in statute. The agency's responsibilities regarding the Pullorum-Typhoid Program and drug testing for pari-mutuel racing, which are located elsewhere in statute, would not be affected by these changes. The changes would not affect the responsibility of other agencies, such as the Texas Animal Health Commission and the Texas Department of State Health Services, to perform testing for diseases under their authority. Finally, the changes would ensure that TVMDL continues to give priority testing to livestock, recognizing its economic importance to the state, as well as its effect on public health.

2.2 Require the agency to provide notice and opportunity for public comment when developing its fee schedule.

Improving the public's ability to participate in TVMDL's fee development process would provide greater accountability for the agency's decisions that affect the public. Specifically, TVMDL would provide 30 days' notice of the proposed fee on its website, as well as in its monthly newsletter. In addition, TVMDL would give all interested persons a reasonable opportunity to submit written comments.

Changes to the fee schedule would occur only after appropriate notice was given, and the agency fully considered all public comment received.

Management Action

2.3 TVMDL should work with the Legislative Budget Board to develop a more clearly defined bill pattern in the General Appropriations Act.

Under this recommendation, TVMDL would request that the Legislative Budget Board work with the agency to clarify TVMDL's bill pattern in the General Appropriations Act. Further detail and explanation in TVMDL's bill pattern and additional performance measures beyond output goals would assist the Legislature in accurately assessing and

funding TVMDL's duties. TVMDL's federal funding would be appropriately noted, apprising the Legislature of additional funding received to support federal testing and surveillance programs, as well as animal disease emergencies. This change would not affect the agency's ability to receive federal funds, which is already provided for by rider elsewhere in the General Appropriations Act. Performance measures would reflect outcomes related to disease diagnostics and reporting to provide an indication of the speed and accuracy of TVMDL's testing of reportable diseases.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

Responses

Agency

Recommendation 2.1: TVMDL agrees with Sunset Commission staff.

Agency Modifications

1. Specify that TVMDL is responsible for providing priority diagnostic services to in-state livestock testing instead of providing diagnostic services for companion animals and out-of-state clients only when staff, facilities and supplies are not required for in-state livestock testing.
2. Eliminate the provision for TVMDL to report diseases to the Texas Animal Health Commission, Texas Department of State Health Services and other state or federal agencies as specified by rule.

Staff Comment: The Texas Animal Health Commission currently has authority to identify reportable diseases by rule, subject to legislative oversight. The staff recommendation would simply conform TVMDL's responsibilities to current practice.

Recommendation 2.2: TVMDL agrees to provide notice and opportunity for public comment when developing its fee schedule as recommended.

Recommendation 2.3: TVMDL agrees to work with the Legislative Budget Board to develop a more clearly defined bill pattern in the General Appropriations Act.

(Lelve G. Gayle, D.V.M., Associate Vice Chancellor and Executive Director – Texas Veterinary Medical Diagnostic Laboratory; John D. White, Chairman – Board of Regents, Texas A&M University System)

For

James C. Grimm, Executive Vice President – Texas Poultry Federation, Round Rock

Jon Johnson, Associate Commodities Director – Texas Farm Bureau, Waco

Against

None received.

Recommended Action: Adopt Recommendations 2.1 through 2.3.

Commission Decision: Adopted Recommendations 2.1 through 2.3.

Issue 3 TVMDL Uses State Funds to Subsidize Tests That Do Not Relate to Statewide Public Health or Economic Loss.

Recommendation

Change in Statute

3.1 Require TVMDL to obtain full cost recovery for tests that do not relate to statewide public health or economic loss.

This recommendation would require TVMDL to develop a fee structure that recovers the full cost of tests that do not result in findings that protect statewide public health, or prevent widespread economic loss to the livestock and poultry industries. While the Legislature has designated certain diseases that require reporting to the appropriate regulatory entity, TVMDL occasionally diagnoses other problems that could potentially threaten public health or the animal industry. The reportable diseases developed by the Legislature, referenced in Appendix C, would continue to receive a state subsidy, as well as any other diagnoses for which the agency contacts a regulatory entity for corrective action. The Executive Director would retain the flexibility to change the fee schedule when new reportable diseases arise, or previously identified diseases no longer threaten public health or economic loss.

Full cost recovery would be determined by evaluating testing supplies, labor, difficulty, and time required to perform the test. As a guide, TVMDL should use the fee schedule for out-of-state clients, which currently reflects the full cost of testing. The new fee amounts would be introduced over a two-year period, giving the TVMDL ample time to establish an appropriate fee schedule. Tests for reportable diseases and other diseases that aid in protecting statewide public health or preventing economic loss would continue to be subsidized by General Revenue Funds. This subsidy would encourage veterinarians and animal owners to continue to send samples to TVMDL if they have concerns that an animal is infected with a disease that threatens public health or the animal industry.

Fiscal Implication

Removing the subsidy for all tests that are not reported could result in a possible revenue gain of \$500,000. Phasing this provision in over two years would allow the Legislature to gradually offset TVMDL's appropriation, resulting in a possible \$250,000 savings to the General Revenue Fund in fiscal year 2008, and a full savings of up to \$500,000 in fiscal year 2009.

Responses

Agency

TVMDL respectfully disagrees with the accuracy of this finding. The majority of diseases diagnosed by TVMDL are not "reportable" diseases under the narrow, technical usage of the term. The public health and economic consequences of failing to diagnose, accurately and early, serious highly contagious pathogens are so great that the State of Texas cannot afford to relax its surveillance merely because they are not "reportable" in the narrow sense of that term. Early, robust surveillance and diagnoses are critical to the detection of emerging pathogens and the prevention of epidemics of high consequence diseases. The imposition of fees that discourage the submission of voluntary

samples erodes the efficacy of the surveillance and detection process and therefore undermines the protection of public health and threatens the economic well-being of industries that are key to the Texas economy.

Early, robust surveillance and diagnoses are critical to the detection of emerging pathogens and the prevention of epidemics of high consequence diseases. In turn, robust surveillance and detection protocols depend on voluntary sample submissions from the veterinary community and the animal industries and voluntary submissions depend on a fee structure that invites, not discourages, voluntary submissions. Stated another way, the imposition of fees that discourage the submission of voluntary samples erodes the efficacy of the surveillance and detection process and therefore undermines the protection of public health and threatens the economic wellbeing of industries that are key to the Texas economy. (Lelve G. Gayle, D.V.M., Associate Vice Chancellor and Executive Director – Texas Veterinary Medical Diagnostic Laboratory)

We respectfully take exception to Issue 3, and in particular the assertion that “TVMDL uses state funds to subsidize tests that do not relate to statewide public health or economic loss.” In our judgment, the tests in question conducted by TVMDL do relate to statewide public health or economic loss. Failure to diagnose early and accurately emerging pathogens expose the public and animal industries of Texas to unnecessary risk of epidemics of a large number of high consequence diseases. The tests conducted by TVMDL are the state’s early warning system that is critically important today more than ever. The risk of bioterrorism against our animal industries is real, and the consequences of tardy identification and confinement of these pathogens could be devastating to our food supply and public health, not to mention our economy. Without running those tests we would not know until too late which pathogens posed highly consequence risk. Further, if costs charged to run the test is too high, many specimens will not be submitted thereby exposing public health and the economy to unnecessary risk. (John D. White, Chairman – Board of Regents, Texas A&M University System)

For

None received.

Against

Jon Johnson, Associate Commodities Director – Texas Farm Bureau, Waco

Roland Lenarduzzi, D.V.M., Past President – Texas Veterinary Medical Association, Manvel

Guy Sheppard, D.V.M., President – Texas Veterinary Medical Association, Austin

Bob Turner, Legislative Liaison – Texas Poultry Federation, Round Rock

Recommended Action: Adopt Recommendation 3.1.

Commission Decision: Not adopted. The Commission took no action on Issue 3.

Across-the-Board Recommendations

Texas Veterinary Medical Diagnostic Laboratory

| Recommendations | Across-the-Board Provisions |
|------------------------|---|
| Not Applicable | 1. Require public membership on the agency’s policymaking body. |
| Modify | 2. Require provisions relating to conflicts of interest. |
| Not Applicable | 3. Require unbiased appointments to the agency’s policymaking body. |
| Not Applicable | 4. Provide that the Governor designate the presiding officer of the policymaking body. |
| Not Applicable | 5. Specify grounds for removal of a member of the policymaking body. |
| Not Applicable | 6. Require training for members of the policymaking body. |
| Not Applicable | 7. Require separation of policymaking and agency staff functions. |
| Not Applicable | 8. Provide for public testimony at meetings of the policymaking body. |
| Apply | 9. Require information to be maintained on complaints. |
| Apply | 10. Require the agency to use technology to increase public access. |
| Apply | 11. Develop and use appropriate alternative rulemaking and dispute resolution procedures. |

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

New Issues

New Issues

None received.

