

GOVERNMENT CODE
CHAPTER 325. SUNSET LAW

Sec. 325.001. SHORT TITLE. This chapter may be cited as the Texas Sunset Act.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.002. DEFINITIONS. In this chapter:

(1) "State agency" means an agency expressly made subject to this chapter.

(2) "Advisory committee" means a committee, council, commission, or other entity created under state law whose primary function is to advise a state agency.

(3) "Commission" means the Sunset Advisory Commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 1, 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 167, Sec. 2.12(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 196, Sec. 1, eff. Aug. 28, 1989.

Sec. 325.003. SUNSET ADVISORY COMMISSION. (a) The Sunset Advisory Commission consists of five members of the senate and one public member appointed by the lieutenant governor and five members of the house of representatives and one public member appointed by the speaker of the house. Each appointing authority may designate himself as one of the legislative appointees.

(b) An individual is not eligible for appointment as a public member if the individual or the individual's spouse is:

(1) regulated by a state agency that the commission will review during the term for which the individual would serve; or

(2) employed by, participates in the management of, or directly or indirectly has more than a 10 percent interest in a business entity or other organization regulated by a state agency the commission will review during the term for which the individual would serve.

(c) It is a ground for removal of a public member from the commission if the member does not have the qualifications required by Subsection (b) for appointment to the commission at the time of appointment or does not maintain the qualifications while serving on the commission. The validity of the commission's action is not affected by the fact that it was taken when a ground for removal of a public member from the commission existed.

(d) Legislative members serve four-year terms, with terms staggered so that the terms of as near to one-half of the legislative members appointed by the lieutenant governor as possible and the terms of as near to one-half of the legislative members appointed by the speaker as possible expire September 1 of each odd-numbered year. If the lieutenant governor or the speaker serves on the commission, he continues to serve until resignation from the commission or until he ceases to hold the office. Public members serve two-year terms expiring September 1 of each odd-numbered year.

(e) Members other than the lieutenant governor and the speaker are subject to the following restrictions:

(1) after an individual serves six years on the commission, the individual is not eligible for appointment to another term or part of a term;

(2) a legislative member who serves more than half of a full term may not be appointed to an immediately succeeding term; and

(3) a public member may not serve more than two consecutive terms, and, for purposes of this prohibition, a member is considered to have served a term only if the member has served more than half of the term.

(f) The lieutenant governor and speaker shall make their appointments before September 1 of each odd-numbered year.

(g) If a legislative member ceases to be a member of the house from which he was appointed, the member vacates his membership on the commission.

(h) If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(i) The commission shall have a chairman and vice-chairman as presiding officers. The chairmanship and vice-chairmanship must alternate every two years between the two membership groups appointed by the lieutenant governor and the speaker. The chairman and vice-chairman may not be from the same membership group. The

lieutenant governor shall designate a presiding officer from his appointed membership group and the speaker shall designate the other presiding officer from his appointed membership group.

(j) Seven members of the commission constitute a quorum. A final action or recommendation may not be made unless approved by a record vote of a majority of the commission's full membership.

(k) Each member of the commission is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement from funds appropriated to the commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 2, eff. Sept. 1, 1987; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 6.17, eff. Jan. 11, 2004.

Sec. 325.004. STAFF. (a) The commission shall employ an executive director to act as the executive head of the commission.

(b) The executive director shall employ persons necessary to carry out this chapter through funds made available by the legislature.

(c) The chairman and vice-chairman of the commission may each employ a staff to work for them on matters related to commission activities.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.005. RULES. The commission shall adopt rules necessary to carry out this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.007. AGENCY REPORT TO COMMISSION. Before October 30 of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall report to the commission:

(1) information regarding the application to the agency of the criteria in Section 325.011; and

(2) any other information that the agency considers appropriate or that is requested by the commission.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 3, eff. Sept. 1, 1987.

Sec. 325.008. COMMISSION DUTIES. (a) Before September 1 of the even-numbered year before the year in which a state agency subject to this chapter and its advisory committees are abolished, the commission shall:

(1) review and take action necessary to verify the reports submitted by the agency under Section 325.007;

(2) consult the Legislative Budget Board, the Governor's Budget and Planning Office, the State Auditor, and the comptroller of public accounts, or their successors, on the application to the agency of the criteria provided in Section 325.011;

(3) conduct a performance evaluation of the agency based on the criteria provided in Section 325.011 and prepare a written report; and

(4) review the implementation of commission recommendations contained in the reports presented to the legislature during the preceding legislative session.

(b) The written report prepared by the commission under Subsection (a)(3) is a public record.

(c) Work performed under this section by the state auditor is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 6, eff. Sept. 1, 2003.

Sec. 325.009. PUBLIC HEARINGS. (a) Between September 1 and December 1 of the calendar year before the year a state agency subject to this chapter and its advisory committees are abolished, the commission shall conduct public hearings concerning but not limited to the application to the agency of the criteria provided in Section 325.011.

(b) The commission may hold the public hearings before September 1 if the evaluation of the agency required by Section 325.008(a)(3) is complete and available to the public.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.010. COMMISSION REPORT. (a) At each regular legislative session, the commission shall present to the legislature and the governor a report on the agencies and advisory committees scheduled to be abolished.

(b) In the report the commission shall include:

(1) its specific findings regarding each of the criteria prescribed by Section 325.011;

(2) its recommendations based on the matters prescribed by Section 325.012; and

(3) other information the commission considers necessary for a complete evaluation of the agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.011. CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1) the efficiency with which the agency or advisory committee operates;

(2) an identification of the objectives intended for the agency or advisory committee and the problem or need that the agency or advisory committee was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities;

(3) an assessment of less restrictive or alternative methods of performing any regulation that the agency performs that could adequately protect the public;

(4) the extent to which the advisory committee is needed and is used;

(5) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(6) whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;

(7) the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency;

(8) the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency;

(9) the extent to which the agency has complied with applicable requirements of:

(A) an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) state law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses;

(10) the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section;

(11) the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(12) the extent to which the agency complies with Chapters 551 and 552 and follows records management practices that enable the agency to respond efficiently to requests for public information; and

(13) the effect of federal intervention or loss of federal funds if the agency is abolished.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(83), (94), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1319, Sec. 33, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1499, Sec. 1.06, eff. Sept. 1, 1999.

Sec. 325.012. RECOMMENDATIONS. (a) In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not

under review when the programs duplicate functions performed in agencies under review;

(3) recommend appropriation levels for each state agency and advisory committee for which abolition or reorganization is recommended under Subdivision (1) or (2); and

(4) include drafts of legislation necessary to carry out the commission's recommendations under Subdivisions (1) and (2).

(b) On the date the commission presents its report to the legislature under Section 325.010, the commission shall present to the state auditor the commission's recommendations that do not require a statutory change to be put into effect. Based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, the state auditor may examine the recommendations and include as part of the next approved audit of the agency a report on whether the agency has implemented the recommendations and, if so, in what manner.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1008, Sec. 4, eff. Sept. 1, 1987; Acts 2003, 78th Leg., ch. 785, Sec. 7, eff. Sept. 1, 2003.

Sec. 325.0125. REVIEW OF CERTAIN AGENCIES. (a) In the two-year period preceding the date scheduled for the abolition of a state agency under this chapter, the commission may exempt certain agencies from the requirements of this chapter relating to staff reports, hearings, and evaluations.

(b) The commission may only exempt agencies that have been inactive for a period of two years preceding the date the agency is scheduled for abolition.

(c) The commission's action in exempting agencies under this section must be done by an affirmative record vote of all members of the commission.

Added by Acts 1987, 70th Leg., ch. 1008, Sec. 5, eff. Sept. 1, 1987.

Sec. 325.0126. MONITORING OF RECOMMENDATIONS. During each legislative session, the staff of the commission shall monitor legislation affecting agencies that have undergone sunset review and shall periodically report to the members of the commission on proposed changes which would modify prior recommendations of the commission.

Added by Acts 1987, 70th Leg., ch. 1008, Sec. 6, eff. Sept. 1, 1987.

Sec. 325.013. ABOLITION OF ADVISORY COMMITTEES. An advisory committee, the primary function of which is to advise a particular state agency, is abolished on the date set for abolition of the agency unless the advisory committee is expressly continued by law. Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.015. CONTINUATION BY LAW. (a) During the regular session immediately before the abolition of a state agency or an advisory committee that is subject to this chapter, the legislature by law may continue the agency or advisory committee for a period not to exceed 12 years.

(b) This chapter does not prohibit the legislature from:

(1) terminating a state agency or advisory committee subject to this chapter at a date earlier than that provided in this chapter; or

(2) considering any other legislation relative to a state agency or advisory committee subject to this chapter.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.016. LEGISLATIVE CONSIDERATION. (a) Except as provided by Subsection (b), the legislature may not consider in one bill the continuation, transfer, or modification of more than one state agency and the agency's functions and advisory committees.

(b) If more than one agency, advisory committee, or function is to be consolidated, the legislature may consider in one bill only the agencies or advisory committees to be consolidated.

(c) A bill to continue a state agency, to transfer its functions, or to consolidate it with another agency must mention the affected agencies in the title of the bill.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.017. PROCEDURE AFTER TERMINATION. (a) A state agency that is abolished in an odd-numbered year may continue in existence until September 1 of the following year to conclude its business. Unless the law provides otherwise, abolishment does not reduce or otherwise limit the powers and authority of the state agency during the concluding year. A state agency is terminated and shall cease all activities at the expiration of the one-year

period. Unless the law provides otherwise, all rules that have been adopted by the state agency expire at the expiration of the one-year period.

(b) Any unobligated and unexpended appropriations of an abolished agency or advisory committee lapse on September 1 of the even-numbered year after abolishment.

(c) Except as provided by Subsection (f) or as otherwise provided by law, all money in a dedicated fund of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment is transferred to the General Revenue Fund. The part of the law dedicating the money to a specific fund of an abolished agency becomes void on September 1 of the even-numbered year after abolishment.

(d) Unless the law or a rider in the General Appropriations Act provides otherwise, an abolished state agency or advisory committee funded in the General Appropriations Act for both years of the biennium may not spend or obligate any of the money appropriated to it for the second year of the biennium.

(e) Unless the governor designates an appropriate state agency as prescribed by Subsection (f), property and records in the custody of an abolished state agency or advisory committee on September 1 of the even-numbered year after abolishment shall be transferred to the State Purchasing and General Services Commission. If the governor designates an appropriate state agency, the property and records shall be transferred to the designated state agency.

(f) The legislature recognizes the state's continuing obligation to pay bonded indebtedness and all other obligations, including lease, contract, and other written obligations, incurred by a state agency abolished under this chapter, and this chapter does not impair or impede the payment of bonded indebtedness and all other obligations, including lease, contract, and other written obligations, in accordance with their terms. If an abolished state agency has outstanding bonded indebtedness or other outstanding obligations, including lease, contract, and other written obligations, the bonds and all other obligations, including lease, contract, and other written obligations, remain valid and enforceable in accordance with their terms and subject to all applicable terms and conditions of the laws and proceedings authorizing the bonds and all other obligations, including lease, contract, and other written obligations. The governor shall designate an appropriate state agency that shall continue to carry out all covenants contained in the bonds and in all other obligations, including lease, contract, and other written obligations, and the proceedings authorizing them, including the issuance of bonds, and the performance of all other obligations, including lease, contract, and other written obligations, to complete the construction of projects or the performance of other obligations, including lease, contract, and other written obligations. The designated state agency shall provide payment from the sources of payment of the bonds in accordance with the terms of the bonds and shall provide payment from the sources of payment of all other obligations, including lease, contract, and other written obligations, in accordance with their terms, whether from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and all other obligations, including lease, contract, and other written obligations, are performed and paid in full. If the proceedings so provide, all funds established by laws or proceedings authorizing the bonds or authorizing other obligations, including lease, contract, and other written obligations, shall remain with the comptroller or the previously designated trustees. If the proceedings do not provide that the funds remain with the comptroller or the previously designated trustees, the funds shall be transferred to the designated state agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 582, Sec. 13, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 8.05, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 639, Sec. 1, eff. Sept. 1, 2001.

Sec. 325.018. SUBPOENA POWER. (a) The commission may issue process to compel the attendance of witnesses and the production of books, records, papers, and other objects necessary or proper for the purposes of the commission proceedings. The process may be served on a witness at any place in this state.

(b) If a majority of the commission directs the issuance of

a subpoena, the chairman shall issue the subpoena in the name of the commission.

(c) If the chairman is absent, the chairman's designee may issue a subpoena or other process in the same manner as the chairman.

(d) If necessary to obtain compliance with a subpoena or other process, the commission may issue attachments. The attachments may be addressed to and served by any peace officer in this state.

(e) Testimony taken under subpoena must be reduced to writing and given under oath subject to the penalties of perjury.

(f) A witness who attends a commission proceeding under process is entitled to the same mileage and per diem as a witness who appears before a grand jury in this state.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.019. ASSISTANCE OF AND ACCESS TO STATE AGENCIES. (a) The commission may request the assistance of state agencies and officers. When assistance is requested, a state agency or officer shall assist the commission.

(b) In carrying out its functions under this chapter, the commission or its designated staff member may inspect the records, documents, and files of any state agency.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.0195. RECORDS PROTECTED FROM DISCLOSURE. (a) A working paper, including all documentary or other information, prepared or maintained by the commission staff in performing its duties under this chapter or other law to conduct an evaluation and prepare a report is excepted from the public disclosure requirements of Section 552.021.

(b) A record held by another entity that is considered to be confidential by law and that the commission receives in connection with the performance of the commission's functions under this chapter or another law remains confidential and is excepted from the public disclosure requirements of Section 552.021.

Acts 2003, 78th Leg., ch. 1112, Sec. 7.01, eff. Sept. 1, 2003.

Sec. 325.020. RELOCATION OF EMPLOYEES. If an employee is displaced because a state agency or its advisory committee is abolished, reorganized, or continued, the state agency and the Texas Employment Commission shall make a reasonable effort to relocate the displaced employee.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.021. SAVING PROVISION. Except as otherwise expressly provided, abolition of a state agency does not affect rights and duties that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings that were begun before the effective date of the abolition.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985.

Sec. 325.022. REVIEW OF PROPOSED LEGISLATION CREATING REGULATORY AGENCY. (a) Each bill filed in a house of the legislature that would create a new state agency having regulatory authority or a new advisory committee to a state agency having regulatory authority shall be forwarded to the commission.

(b) The commission shall review the bill to determine if:

(1) the proposed regulatory and other functions of the agency or committee could be administered by one or more existing state agencies or advisory committees;

(2) the form of regulation, if any, proposed by the bill is the least restrictive form of regulation that will adequately protect the public;

(3) the bill provides for adequate public input regarding any regulatory function proposed by the bill; and

(4) the bill provides for adequate protection against conflicts of interest within the agency or committee.

(c) After reviewing the bill, the commission shall forward a written comment on the legislation to the author of the bill and to the presiding officer of the committee to which the bill is referred.

Added by Acts 1987, 70th Leg., ch. 167, Sec. 2.13(a), eff. Sept. 1, 1987.

Sec. 325.024. GIFTS AND GRANTS. (a) The commission may accept gifts, grants, and donations from any organization described in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under this chapter.

(b) All gifts, grants, and donations must be accepted in an open meeting by a majority of the voting members of the commission

and reported in the public record of the commission with the name of the donor and purpose of the gift, grant, or donation.
Added by Acts 1987, 70th Leg., ch. 617, Sec. 6, eff. Sept. 1, 1987.