Sunset Advisory Commission

Final Report

Board of Tax Professional Examiners

July 2009

Sunset Advisory Commission

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* Senator Kim Brimer served on the Commission from December 2005 through December 2008.

** Charles McMahen was appointed to fill the unexpired term of Michael Stevens.

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Director

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.

Board of Tax Professional Examiners

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This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission and the Legislature for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and members of the public, as well as action taken by the Sunset Commission and the Legislature in each step of the Sunset process.

- *Sunset Staff Report* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.

- *Hearing Material* – Summarizes all responses from agency staff and members of the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission.

- *Decision Material* – Includes additional responses, testimony, or new policy issues raised during the public hearing for consideration by the Sunset Commission in its decision meeting on an agency.

- *Commission Decisions* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.

- *Final Report* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency's Sunset bill.

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Summary

Summary

As property taxes have escalated in recent years, the Board of Tax Professional Examiners has found itself in the spotlight. This small agency, responsible for providing state-level oversight of the local officials who administer property taxes, has drawn the interest of taxpayers and legislators increasingly concerned and frustrated with the property tax system in Texas. The heightened interest has caused the Board to come under Sunset review six years early, due to concerns that it has not taken sufficient action to ensure tax professionals are competent, knowledgeable, and ethical.

In conducting this review, Sunset staff found that the deep concern about property taxes in Texas justifies the State's continuing interest in registering and certifying tax professionals. However, the review also found that the Board, due mainly to its small size, has had difficulty effectively carrying out its regulatory duties. This report documents many of the agency's difficulties that, taken together, reveal an agency that has not satisfied some of the basic requirements placed on it, much less sought to go beyond these basic requirements to anticipate needs and problems before they arise.

Abolishing the Board and transferring its duties to TDLR offers opportunities to improve tax professional regulation.

Sunset staff concluded that abolishing the Board and transferring its functions to the Texas Department of Licensing and Regulation (TDLR) offers opportunities to increase the efficiency and effectiveness of tax professional regulation. TDLR has the expertise and resources necessary to improve the administration of the program and its responsiveness to registrants and the public. Creating a separate advisory committee devoted to giving technical and rulemaking advice to TDLR would also ensure that registrants and the public continue to have a voice. These recommendations do not expand the State's authority over tax professionals, but would simply transfer the Board's existing authority to TDLR.

A summary of the Sunset staff recommendations on the Board of Tax Professional Examiners is provided in the following material.

Issues and Recommendations

Issue 1

The Board of Tax Professional Examiners Has Had Difficulty Effectively Carrying Out Its Regulatory Duties.

Key Recommendations

- Abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation.
- Establish a tax professional advisory committee to assist with the regulation of tax professionals.
- Authorize TDLR to seek assistance from the Comptroller's Office on educational needs and other regulatory issues.

Issue 2

Key Elements of the Board's Registration and Renewal Functions Do Not Conform to Commonly Applied Licensing Practices.

Key Recommendations

- Eliminate licensing and administrative fee caps in statute and authorize the Board or its successor agency to set fees in rule.
- Authorize the Board or its successor agency to adopt rules establishing a system under which registrations expire on various dates during the year.
- Tighten the timeframes for assessing late renewal fees and require those fees to be based on the standard registration renewal fee.

Fiscal Implication Summary

None of the recommendations in this report would have a significant fiscal impact to the State.

Summary of Legislative Action
H.B. 2447 Flynn (Estes)

The Legislature adopted all of the Sunset Commission's recommendations. House Bill 2447 abolishes the Board of Tax Professional Examiners and transfers its functions to the Texas Department of Licensing and Regulation (TDLR). The Legislature also added several provisions to the bill to strengthen tax professional regulation and conform it with TDLR's existing regulatory structure. The list below summarizes the major provisions of H.B. 2447, and a more detailed discussion is located in each issue.

Sunset Provisions

1. Abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation.

2. Conform key elements of the Property Taxation Professional Certification Act's licensing and enforcement functions to commonly applied licensing practices.

Provisions Added by the Legislature

1. Strengthen education and examination requirements for tax professionals and conform them with TDLR's other regulatory programs.

2. Expand TDLR's authority to investigate complaints and take enforcement action against tax professionals.

3. Conform administrative fee provisions in the Property Taxation Professional Certification Act with similar provisions for TDLR's other regulatory programs.

Fiscal Implication Summary

The provisions in H.B. 2447 will not have a fiscal impact to the State.

Issues

Issue 1

The Board of Tax Professional Examiners Has Had Difficulty Effectively Carrying Out Its Regulatory Duties.

Summary

Key Recommendations

- Abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation.
- Establish a tax professional advisory committee to assist with the regulation of tax professionals.
- Authorize TDLR to seek assistance from the Comptroller's Office on educational needs and other regulatory issues.

Key Findings

- The State has a continuing interest in registering and certifying tax professionals.
- The Board's approach to regulating tax professionals has not included a strong enforcement effort.
- The Board's resources are insufficient to effectively manage a state agency with regulatory duties.
- Other states use larger agencies to administer tax professional training programs.
- While other organizational options exist, consolidating the agency's functions with the Texas Department of Licensing and Regulation offers the best opportunity for increasing administrative effectiveness and efficiency.

Conclusion

The Legislature has charged the Board of Tax Professional Examiners with regulating local officials who administer the property tax system to ensure they are competent, knowledgeable, and ethical. The Sunset review evaluated the effectiveness of the Board's regulatory program and found that its ability to address the concerns of taxpayers is limited by the small size of the agency and its lack of clear and comprehensive regulations.

The review concluded that transferring the Board's functions to the Texas Department of Licensing and Regulation would improve the regulation of the profession. Creating a separate advisory committee devoted to giving technical and rulemaking advice would ensure that registrants and the public continue to have a voice, while improving the effectiveness, efficiency, and responsiveness of the current regulation.

Support

The Board of Tax Professional Examiners regulates local officials responsible for administering property taxes in Texas.

- The Legislature created the Board of Tax Professional Examiners in 1983 to regulate tax professionals. The Board's mission is to ensure that those who appraise real property and assess and collect property taxes are knowledgeable, competent, and ethical. To fulfill its mission, the Board registers tax assessor-collectors, appraisers, and collectors; oversees the educational system necessary for certification; administers certification exams; and enforces the Property Taxation Professional Certification Act and Board rules by taking complaints against tax professionals, monitoring compliance with education requirements, and taking disciplinary action when necessary.

- The Board registers elected assessor-collectors and certain employees of appraisal districts and local taxing entities, including counties, cities, and school districts. The Board also registers appraisers who work for private firms that contract with appraisal districts to perform special types of appraisals. At the end of fiscal year 2008, the Board regulated 3,728 tax professionals, as detailed in the accompanying table.

Registrant Information – August 31, 2008

Total number of tax professionals registered	3,728
Number of tax professionals registered in more than one field	321
Number of registrations	4,049
◆ Appraisers	2,492
◆ Assessor-Collectors	1,148
◆ Collectors	409

- Tax professionals' registration is tied to their employment, meaning they must register when they begin working for an appraisal district or taxing entity and they lose their registration when they terminate employment. Once registered with the Board, tax professionals must work toward certification. The table, *Certification Requirements*, on page 25 of this report, outlines the coursework, exam, and continuing education requirements tax professionals must meet to become certified and maintain that certification.

The Board has three full-time employees and one part-time employee.

- The Board of Tax Professional Examiners consists of five members, including four who are practicing tax professionals and one representing the public. The Board employs three full-time employees and one part-time employee. In fiscal year 2008, the Board operated with an appropriation of $190,028, including $6,750 that it paid to the Office of the Comptroller of Public Accounts for administrative services, such as technology support, payroll, human resources, accounting, and purchasing. The local government offices that employ the Board's registrants pay registration and exam fees, which cover all of the Board's administrative costs.

The State has a continuing interest in registering and certifying tax professionals.

- The public has an interest in regulating individuals responsible for administering the property tax system. Property taxes have a significant financial impact on property owners and play an essential role in financing local governments. In 2006, school districts, cities, counties, and special taxing districts levied $35.55 billion in property taxes.[1] Property taxes are the primary source of funding for local government services in Texas, including public schools, roads, fire and police departments, emergency services, libraries, hospitals, and community colleges.

State-level certification ensures uniform education and training of property tax professionals.

- Because tax professionals must accurately appraise all types of agricultural, commercial, industrial, and residential property, and assess and collect taxes based on the appraised value of this property, the public and local governmental entities need to have confidence that those professionals know how to successfully complete such complex operations.

  The Board's certification requirements are meant to ensure that the appraisal, assessment, and collection of property taxes are practiced by professional, knowledgeable, and competent individuals. A state-level certification program for tax professionals ensures uniformity in the education and training they receive, providing a level of consistency statewide that could be lost if this responsibility were left to individual appraisal districts, assessor-collector offices, and taxing entities. A statewide training program also helps ensure tax professionals are valuing property and assessing taxes according to the same general standards.

- The public also needs to have confidence that tax professionals are performing their duties in an ethical, professional manner. The Board has established standards of ethical conduct, which it enforces by taking complaints from the public, opening its own complaints when it becomes aware of problems, and taking enforcement action when necessary. Since tax professionals are employees of local government offices, and private firms that contract with those offices, they are also subject to disciplinary action by their employers.

Taxpayers are frustrated with the property tax system and the professionals who administer it.

- In recent years, property taxes and property tax appraisals have become issues of great concern for taxpayers and their legislators throughout Texas. As taxpayers see their appraised values and taxes rise year after year, they become frustrated with the property tax system and the tax professionals who administer the system. While the property tax system is well beyond the authority of the Board to address, the tax professionals who administer the system are within the Board's purview. Interest in tax professionals was at least partly behind the appointment of House and Senate select committees to evaluate the appraisal process as part of a larger study of the State's property tax system.

The Board's approach to regulating tax professionals has not included a strong enforcement effort.

The Board has no investigative staff.

- The Board has not considered enforcement to be a key part of its regulatory effort. While many complaints relate to larger problems with the property tax system that are outside the Board's jurisdiction, the Board's de-emphasis of its overall enforcement effort, as shown in the following material, denies a significant component of its regulatory responsibility. The Board's hands-off approach to enforcement has meant that disciplinary action against tax professionals generally occurs at the local level, through decisions by appraisal districts and taxing offices to terminate or discipline their employees as necessary.

- The Board performs limited investigations of the few complaints it receives. The Board receives about 20 complaints each year and dismisses most of them for lack of evidence, as shown in the table, *Complaint Activity*. With no investigative staff, the Board relies on its complaint committee to review complaints and recommend actions to the Board. The complaint committee consists of a member of the Board, the agency's Executive Director, and the Board's representative from the Attorney General's Office.

Complaint Activity

	FY 05	FY 06	FY 07	FY 08
Complaints Received				
From the public	12	21	19	19
Initiated by the agency	0	0	1	0
Total Received	**12**	**21**	**20**	**19**
Complaints Pending from Previous Year	**2**	**2**	**4**	**7**
Complaints Resolved				
Dismissed/lack of jurisdiction	4	1	3	0
Dismissed/lack of evidence	7	17	11	21
Resignation of registrant	1	0	0	0
Complaints resulting in disciplinary action*	0	1	3	3
◆ Individuals placed on probation	0	0	1	0
◆ Individuals receiving letters of reprimand	0	2	3	3
Total Resolved	**12**	**19**	**17**	**24**
Complaints Pending at End of Fiscal Year	**2**	**4**	**7**	**2**

* One complaint may result in disciplinary action against multiple registrants.

When the Board receives a complaint, the Executive Director will request a response from the tax professional named in the complaint. The complaint committee will then review both the complaint and response and may request additional information from the respondent.

The committee does not travel, review records, or interview witnesses to gather evidence, but relies solely on the information provided by the complainant and respondent.

- Whether the Board does not have the resources or the will to conduct more detailed investigations, the result is that the Board takes few significant disciplinary actions. The Act authorizes the Board to sanction registrants who violate the Act or Board rules by issuing a reprimand or denying, probating, suspending, or revoking a registration.[2] In the past four years, the agency has taken enforcement action against nine individuals, including issuing reprimands to eight registrants and probating one tax professional's registration, as shown in the chart, *Complaint Activity*.

The Board takes few significant disciplinary actions.

- The Board's rules governing standards of ethical conduct are complex and contain many standards that the Board may be unable to substantiate. The rules cover topics such as improper influence, conflict of interest, unfair treatment, discrimination, and abuse of powers, and are discussed in more detail on page 26 of this report.[3] The Board adopted these rules in 1991 and has only made one minor change since then. Due to the Board's limited investigation of complaints, most allegations come down to disagreements between the complainant and respondent over what really happened, as shown in the summary of complaints resolved in fiscal year 2007 in Appendix A.

- The Board's complaint process is not easy to navigate. The Board has not adopted rules governing important parts of the process, including procedures for handling complaints between initial filing and final disposition. Without such rules, registrants and the public do not know how the complaint process works or what they may expect. Further, the Board's website is geared more for the needs of tax professionals and does not provide clear, easy-to-find information about the complaint process. To find information about filing a complaint, taxpayers must either call the agency or find the complaint packet in the "Forms and Applications" section of the agency's website. Even after filing a complaint, taxpayers may not know its status because the agency does not, as a standard practice, send an acknowledgement letter when a complaint is submitted.

Without rules governing the complaint process, registrants and the public do not know what to expect.

- The Board has not implemented a provision in its 2003 Sunset legislation requiring it to adopt written guidelines in rule to ensure the consistent use of letters of reprimand and probation.[4] The Sunset staff report on the agency provided specific guidance on the types of procedures the Board should adopt, including defining the violations that would result in a reprimand or probation and whether any follow-up action is necessary.[5] However, in response, the Board simply amended its rules clarifying that it would review all disciplinary action taken over the previous five years, before taking disciplinary action.[6] Further, the Board has not added anything about reprimands and probation to its policy manual, even though the manual includes procedures for the use of other enforcement tools. Without procedures or rules governing the Board's

use of reprimands and probation, which are the only enforcement actions it has used, the Board cannot ensure it is applying these actions fairly and consistently.

The Board's resources are insufficient to effectively manage a state agency with regulatory duties.

The Board is susceptible to a devastating loss of expertise with the loss of even a single employee.

- Small state agencies typically have difficulty fulfilling their requirements because of limited resources. They may be too small and their missions too complicated for their programs to mature into stable and efficient operations. The Board, with just three full-time employees and one part-time employee, has had such difficulties. Although the Comptroller's Office provides administrative support to the agency, the Board has difficulty following standards required of all state agencies and performing some of its basic regulatory functions, as noted in the following material. The Board is also susceptible to a devastating loss of expertise with the loss of even a single employee.

- According to general state law, all agencies must review their rules and either readopt, change, or repeal them every four years.[7] The purpose of this law is to ensure agencies keep their regulations up to date. However, the Board has not changed many of its rules since they were adopted in the 1980s and 1990s. As with complaint process and standards of conduct rules mentioned above, the Board has not updated other rules in many years despite changing circumstances. For example, although the Legislature removed the statutory requirement for tax professionals to notarize their applications for registration in 2003, the Board has not removed the requirement from its rules, even though it no longer requires notarization in practice.[8]

The Board has not updated its rules in many years, despite state law requiring it to do so regularly.

- Another section of general state law lays out the basic structure and duties of state agency advisory committees.[9] This law applies to all committees created by state agencies with the primary function of advising those agencies. The law creates guidelines for committee membership and reimbursement, requires agencies to define in rule the purpose of each committee, and requires agencies to annually evaluate committees to determine their continued usefulness. To ensure that committees remain useful, state law creates automatic expiration dates for committees four years from their creation and requires agencies to act, through rulemaking, to continue needed committees. The Board has not complied with these requirements for either of its two advisory committees, the Professional Standards Committee and the Instructor Advisory Committee. The Board has not adopted rules concerning the committees and does not evaluate their usefulness.

- The agency relies heavily on the efforts of professional associations to operate its educational program. A consortium of tax professional associations, the Property Tax Education Coalition (PTEC), develops and updates the courses required by the Board for tax professionals to become certified. PTEC also prepares the certification examinations,

which Board staff administers and grades. While the Board will suggest modifications to the courses, it does not, as a standard practice, review or approve courses or exams.

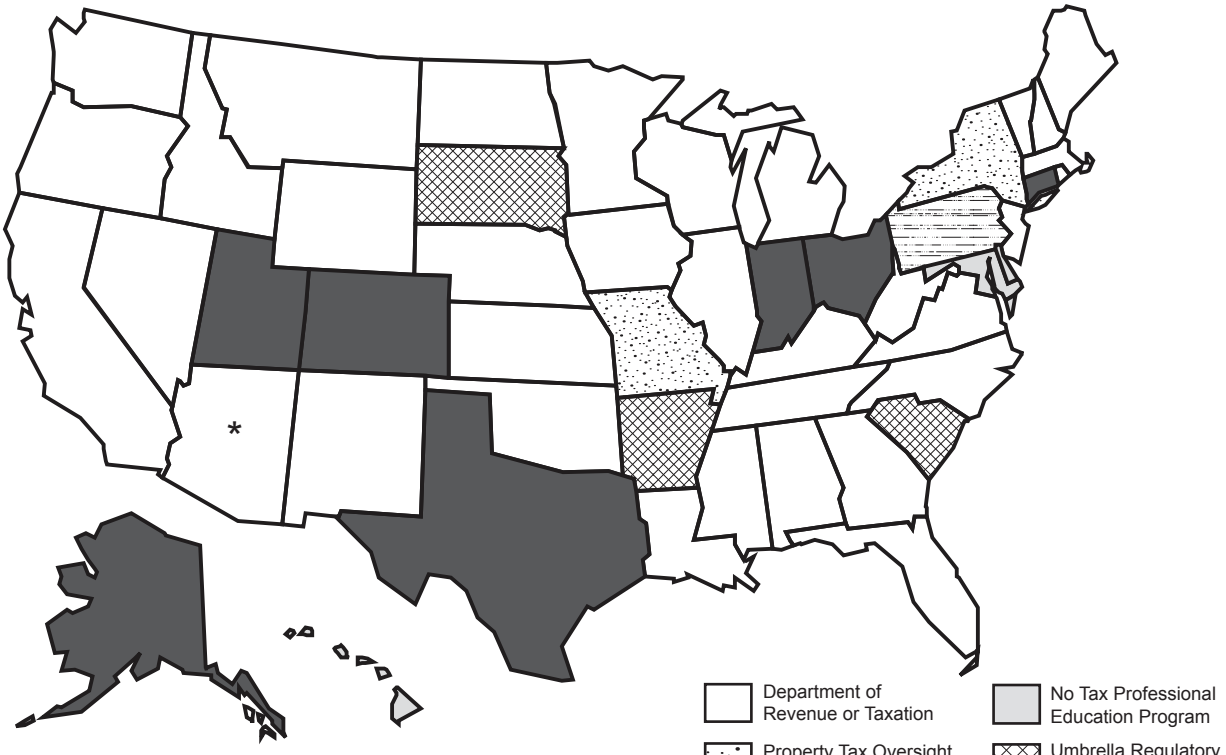
Despite the important role PTEC plays in providing education to meet the Board's certification requirements, the Board has no formal agreement governing its relationship with PTEC. The Board has only recently taken action to implement a 2002 Sunset Commission management recommendation to define in writing PTEC's responsibilities and its relationship with the Board.

The Board does not routinely review or approve courses or exams.

Other states use larger agencies to administer tax professional training programs.

- Texas is the only state with an agency whose sole purpose is to oversee property tax professionals. The other 46 states that either require or encourage tax professional education use larger agency structures, although the organization of such agencies varies, as shown in the map, *Tax Professional Education Programs in Other States*.

Tax Professional Education Programs in Other States



* Arizona's Department of Revenue certifies county tax assessors, while its Board of Appraisal regulates property tax and real estate appraisers.

** States in this category organize their tax professional education programs under their Department of Commerce, Office of the Governor, local government affairs and finance agency, or as a stand-alone agency. Texas is the only state with a stand-alone tax professional agency.

While other organizational options exist, consolidating the agency's functions with the Texas Department of Licensing and Regulation offers the best opportunity for increasing administrative effectiveness and efficiency.

TDLR has demonstrated the ability to regulate a range of activities.

- The Texas Department of Licensing and Regulation (TDLR) effectively regulates a variety of occupations and offers an opportunity to improve the current regulation of tax professionals. TDLR's functional alignment and use of technical advisory committees allow the agency to oversee appropriate and efficient regulation of its programs. The Legislature has recognized TDLR as the State's model for occupational licensing, continually adding new programs and relying on the agency's licensing expertise to help with start-up licensing programs. TDLR has also demonstrated the ability to regulate a range of activities requiring specialized knowledge and expertise. Its success in incorporating new programs sets the stage for continued consolidation of smaller licensing agencies.

- TDLR has the existing framework to absorb the regulation of tax professionals and improve the overall effectiveness of that regulation. The Department currently oversees more than 20 types of businesses, industries, trades, and occupations, and is organized along workflow functions – licensing, enforcement, administration, and support services – to achieve streamlined processes for each of its programs. The licensing division efficiently processes all of TDLR's applicants, and the enforcement division processes, investigates, and resolves complaints against licensees. TDLR also has the necessary administrative and legal support functions in place to meet the needs of the tax professional regulatory program.

Advisory committees at TDLR provide rulemaking and technical advice on specific licensing programs.

- The Commission on Licensing and Regulation, TDLR's policymaking body, comprises seven public members appointed by the Governor. The Commission receives assistance from 15 advisory committees, which provide rulemaking and technical advice on specific licensing programs. Typically, agency staff present draft rules to the specialized advisory committees for development and comment. After the advisory committee approves the rules for recommendation to the Commission, the agency publishes the rules for public comment, and then the Commission votes on them.

  Creating a new advisory committee to address tax professional regulation would ensure that the Commission receives technical expertise from stakeholders in policy and rulemaking, as well as ensuring public input when proposed changes go to the full Commission. Having the Commission make the final decisions on tax professional matters removes any appearance of a conflict of interest resulting from the current composition of the Board, which consists mainly of tax professionals and only one public member.

- TDLR already has familiarity with the property tax system because it regulates property tax consultants. Property tax consultants assist taxpayers who are protesting their appraised values with the preparation of tax renditions and reports. TDLR has established a short, easy to understand list of standards of ethics and professional conduct for property tax consultants.[10] TDLR has been able to substantiate violations of these standards and has taken action to enforce them using probation, administrative penalties, and license revocation.[11]

- The Comptroller of Public Accounts and the Texas Appraiser Licensing and Certification Board at the Real Estate Commission could administer the Board's regulatory program. However, both options present significant disadvantages.

  The Property Tax Division within the Comptroller's Office has technical knowledge of the property tax system and regularly interacts with appraisal districts and assessor-collector offices, in addition to having its own appraisal staff, many of whom are Board registrants. The Division's main duty is to conduct the annual property value study to ensure the values assigned by appraisal districts do not inappropriately affect the equitable distribution of state education funding. For additional information about the Property Tax Division, refer to page 23 of this report. In addition to performing the property value study, the Division's role is limited to providing technical assistance; it does not regulate appraisal districts or assessor-collector offices. Further, the Comptroller's Office currently has no licensing functions.

  The Comptroller's Office has knowledge of the property tax system, but has no licensing functions.

  The Texas Appraiser Licensing and Certification Board, housed at the Real Estate Commission, licenses real estate appraisers, or fee appraisers. The work of real estate appraisers and property tax appraisers differs greatly. Real estate appraisers determine the value of an individual piece of property, while property tax appraisers use mass appraisal techniques to assign values to entire neighborhoods. In addition, almost half of the Board of Tax Professional Examiners' registrants perform tax assessment and collection functions, which are completely unrelated to real estate appraisal.

Recommendations

Change in Statute

1.1 Abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation.

Under this recommendation, the Board of Tax Professional Examiners would cease to exist as an independent agency, and its regulatory functions would transfer to TDLR. The Board's existing authority for registering, certifying, and taking enforcement action against tax professionals would be transferred to TDLR. This recommendation would remove the Sunset provision in the Property

Taxation Professional Certification Act, as it would be subject to review under TDLR's existing Sunset provision. It would also remove language in the Act requiring an interagency contract with the Comptroller's Office to provide administrative support.

Transferring the functions of the Board of Tax Professional Examiners to TDLR would improve the State's regulation of tax professionals while keeping current registration categories intact. TDLR has the tools available to provide efficient administrative support services. TDLR provides a secure and knowledgeable agency structure to efficiently administer the regulation of tax professionals while increasing registrant and consumer responsiveness. Further, the Commission on Licensing and Regulation, with its all-public membership, would provide needed objectivity and would develop comprehensive rules to govern all aspects of tax professional regulation.

The Commission could also develop a formal relationship with the Property Tax Education Coalition. Since the Coalition is not established in statute and no formal agreement exists between it and the Board, TDLR would be able to work with the Coalition to design a relationship that would accomplish the goals of both parties, as well as tax professionals and the public.

While a potential conflict of interest exists if TDLR were to regulate both property tax consultants and tax professionals, since they represent opposing sides in the appraisal protest process, the agency would be able to maintain separation in its regulation of the two professions. Each profession would have its own statute and advisory committee, and the Commission would make all final regulatory decisions.

1.2 Establish a tax professional advisory committee to assist with the regulation of tax professionals.

This recommendation would create a tax professional advisory committee at TDLR to advise the Commission on Licensing and Regulation, with the duties described in the textbox, *Recommended Duties of the Advisory Committee*. The presiding officer of the Commission, with the Commission's approval, would appoint five members to the advisory committee for six-year staggered terms, and would designate one member of the committee as the presiding officer. The membership would include two registered appraisers, two registered assessor-collectors, and one public member.

Recommended Duties of the Advisory Committee

- Recommend rules and standards on technical issues related to the profession.
- Provide advice regarding educational courses and curricula for registrants.
- Provide advice regarding examination content.
- Educate the Commission on Licensing and Regulation and TDLR staff on issues affecting the profession.
- Respond to questions from TDLR's staff and Commission relating to the profession.

A new advisory committee responsive to the Commission on Licensing and Regulation would capture technical expertise on the profession and merge that expertise with an effective operating structure at TDLR. The advisory committee would also ensure that stakeholders have opportunities for meaningful input in the creation of rules and regulations affecting the profession. For example, the advisory committee could provide critical input to TDLR to help develop clear standards of professional conduct that both registrants and the public would understand and that the agency would be able to enforce.

1.3 Authorize TDLR to seek assistance from the Comptroller's Office on educational needs and other regulatory issues.

This recommendation would give TDLR and the Comptroller's Office statutory authority to collaborate on tax professional regulation. Since the Comptroller's Office regularly works with appraisal districts and taxing entities and has registered appraisers on staff, it can offer advice to TDLR on the coursework required for certification. TDLR would also be able to seek the Comptroller's technical assistance on enforcement cases and other regulatory functions.

Fiscal Implication

Transferring the functions of the Board of Tax Professional Examiners to the Texas Department of Licensing and Regulation would not have a significant fiscal impact to the State. The Board's current appropriation of $190,028 and staffing level of 3.7 full-time equivalent positions would be continued and transferred to TDLR. While the Board currently contracts with the Comptroller's Office for administrative support services for a cost of $6,750 per year, TDLR would be able to provide this support for the tax professional program. TDLR would still need the Board's three full-time and one part-time staff to perform the regulatory functions of the program. However, TDLR would be able to provide more efficient and comprehensive services to registrants and the public with the same amount of resources as the Board.

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1 Texas Comptroller of Public Accounts, *Annual Property Tax Report: Tax Year 2006*, ch. 1, "Focus on Statewide Taxes," (Austin, Texas, January 2008). Online. Available: http://www.window.state.tx.us/taxinfo/proptax/annual06/ch01.html. Accessed: August 21, 2008.

2 Texas Occupations Code, sec. 1151.202.

3 Texas Administrative Code, Title 22, part 27, chapters 625, 627, and 628.

4 Texas Occupations Code, sec. 1151.202 (b).

5 Sunset Advisory Commission, *Sunset Staff Report on the Board of Tax Professional Examiners*, (Austin, Texas, November 2002), p. 21.

6 Texas Administrative Code, Title 22, part 27, rule 629.6 (j).

7 Texas Government Code, sec. 2001.039.

8 Texas Administrative Code, Title 22, part 27, rule 623.1 (a).

9 Texas Government Code, ch. 2110.

10 Texas Administrative Code, Title 16, part 4, rule 66.100.

11 TDLR has taken the following enforcement actions against property tax consultants during the last five fiscal years: assessed administrative penalties against four licensees, suspended two licenses, and revoked one license. Texas Department of Licensing and Regulation, Administrative Orders - Search, http://www.license.state.tx.us/cimsfo/fosearch2.asp. Accessed: October 31, 2008.

Responses to Issue 1

Recommendation 1.1

Abolish the Board of Tax Professional Examiners and transfer its functions to the Texas Department of Licensing and Regulation.

Agency Response to 1.1

The Board of Tax Professional Examiners disagrees with this recommendation.

The Agency's primary responsibilities are twofold. The first is to oversee the registration and education for certification of all property tax professionals in Texas, and second to investigate and take necessary action on registrant complaints. The Board of Tax Professional Examiners has maintained an education program that is thorough, efficient and cost effective. The State of Texas is the only state with their own education program written exclusively for property tax professionals. Texas' registration and certification program is unique in that it requires successful completion of two state examinations prior to certification as a Registered Professional Appraiser or Registered Texas Assessor-Collector.

In 1991 the State Property Tax Board was abolished by the Sunset Commission and the property tax professional education program was left unfunded under the authority of the Board of Tax Professional Examiners. The assumption was made that private industry would take over the education program and maintain it, but this did not occur. In 1995, the Board requested funding to maintain the education program which had become outdated due to statutory changes. Funding was requested from the State in 1995 to refresh and maintain the education program but was denied. In 1996, the property tax professional organizations banded together and created the Property Tax Education Coalition. This coalition works to keep the educational courses and materials current with statute and brings changes and proposals to the Board. The Board has been criticized for its dependence on committees such as PTEC, the Professional Standards Committee and the new Instructor Advisory Committee. However, these committees work tirelessly to improve the professionalism and accuracy of the education program without cost to the State of Texas.

The complaints received by the Board are relatively few, and to a great extent involve value issues and misunderstandings concerning the property tax system as a whole. Most do not fall within the authority of the BTPE. The Board has the will to discipline registrants that have violated Board rule and has demonstrated this. The Board has demonstrated acceptance of this disciplinary responsibility on occasions in which it has jurisdiction. However, registration and certification as a property tax professional is tied to the registrant's employment. Serious infractions result in the registrant leaving their position, at which time the Board no longer has authority to act.

The Board does not believe that transferring its functions to the Texas Department of Licensing and Regulation will improve the professionalism, education, or ethical behavior of tax professionals in Texas to enable them to better serve the taxing jurisdictions they work for or the citizens they serve. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 1.1

Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin

Coach Dan Hart, Chairman – Taxpayers for Equal Appraisal, Houston

Against 1.1

Phyllis Bryan, Chief Appraiser – Lamar County Appraisal District

Mike Smith, Upshur County Tax Assessor-Collector – Upshur County

Becky Watson, President – Tax Assessor-Collectors Association of Texas and Cass County Tax Assessor-Collector, Linden

Modifications

1. Limit the scope of regulation of tax professionals to education and certification requirements only, thus eliminating the complaint investigation function. (Representative Linda Harper-Brown, Member – Sunset Advisory Commission)

2. Transfer the Board's regulation of tax professionals and the regulation of property tax consultants, currently under TDLR, to the Texas Appraiser Licensing and Certification Board. (John Osenbaugh, Realtor – Katy)

3. Transfer the regulation of tax assessors and collectors to the Comptroller's Office. (Becky Watson, President – Tax Assessor-Collectors Association of Texas and Cass County Tax Assessor-Collector, Linden)

4. Require TDLR to continue the partnership established by the Board with the Property Tax Education Coalition. (Edward H. Trigg, President – Texas Association of Appraisal Districts, Austin)

   Staff Comment: Adopting this modification would require the Property Tax Education Coalition to be formally established in law. The Coalition is not currently mentioned in the Property Taxation Professional Certification Act.

5. Request a detailed plan from TDLR before issuing a final recommendation on the Board to ensure the recommendation is fiscally responsible. (Cheryl E. Johnson, Galveston County Tax Assessor-Collector – Galveston County)

Recommendation 1.2

Establish a tax professional advisory committee to assist with the regulation of tax professionals.

Agency Response to 1.2

If the Board is abolished, this is essential. The goal will be to make the transition as transparent as possible. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 1.2

None received.

Against 1.2

None received.

Modifications

6. Grant the tax professional advisory committee at TDLR the responsibility for the education program. (Linda Hatchel, Member – Board of Tax Professional Examiners, Woodway)

7. Include property owners on the tax professional advisory committee to represent each category of taxable property. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

8. Require the tax professional advisory committee to have no more than 11 members with representatives randomly selected, rather than appointed, to represent county groups based on parcel counts. (Cheryl E. Johnson, Galveston County Tax Assessor-Collector – Galveston County)

Recommendation 1.3

Authorize TDLR to seek assistance from the Comptroller's Office on educational needs and other regulatory issues.

Agency Response to 1.3

If the Board is abolished, this is essential. The goal will be to make the transition as transparent as possible. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 1.3

None received.

Against 1.3

None received.

Modification

9. In addition to seeking input from the Comptroller's Office, create an education advisory committee with representation from each professional organization and a wide array of counties. (Cheryl E. Johnson, Galveston County Tax Assessor-Collector – Galveston County)

Commission Decision

Adopted Recommendations 1.1 through 1.3.

Legislative Action

House Bill 2447 abolishes the Board and transfers its functions to TDLR. The Board's existing authority for registering, certifying, and taking enforcement action against tax professionals will transfer to TDLR, keeping current registration categories intact. (Recommendation 1.1)

The bill also creates an advisory committee to advise the Department on tax professional regulatory issues. The Legislature modified the Sunset provision to include three public members, instead of one, on the advisory committee. The Legislature also added provisions to prohibit anyone who has served on an appraisal review board from serving as a public member on the committee and anyone whose spouse is a registered lobbyist from serving on the committee. (Recommendation 1.2)

House Bill 2447 provides for greater input from the Comptroller's Office in the regulation of tax professionals. The Legislature expanded on the Sunset provision by requiring the Comptroller to provide TDLR with information on tax professional educational needs; review and approve all educational courses, exams, and continuing education; provide TDLR with reports and other documents related to its reviews of appraisal districts; and provide information and assistance with TDLR's administrative proceedings. (Recommendation 1.3)

Issue 2

Key Elements of the Board's Registration and Renewal Functions Do Not Conform to Commonly Applied Licensing Practices.

Summary

Key Recommendations

- Eliminate licensing and administrative fee caps in statute and authorize the Board or its successor agency to set fees in rule.
- Authorize the Board or its successor agency to adopt rules establishing a system under which registrations expire on various dates during the year.
- Tighten the timeframes for assessing late renewal fees and require those fees to be based on the standard registration renewal fee.

Key Finding

- Nonstandard registration fee and renewal provisions of the Board's statute could reduce the agency's flexibility and efficiency.

Conclusion

Various registration fee and renewal provisions of the Property Taxation Professional Certification Act do not conform to model standards developed by Sunset staff over 30 years of reviewing occupational licensing agencies. The Sunset review compared the Board's statute, rules, and practices to the model licensing standards to identify variations. Based on the variations, staff identified the recommendations needed to bring the Board or its successor agency in line with the model standards.

Support

Regulating occupations, such as property tax professionals, requires common registration and renewal activities.

The Board regulates more than 3,700 tax professionals.

- The mission of the Board of Tax Professional Examiners is to regulate local tax professionals to ensure that those who appraise real property and assess and collect property taxes are knowledgeable, competent, and ethical. As part of its regulatory functions, the Board registers and certifies tax assessor-collectors, appraisers, and collectors. Registrants renew their registration on an annual basis. In fiscal year 2008, the Board regulated 3,728 tax professionals, with 321 individuals registered in two fields. The Board's registrants included 2,492 appraisers, 1,148 assessor-collectors, and 409 collectors.

- The Sunset Advisory Commission has a historic role in evaluating licensing agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the Commission in 1977. Since then, the Sunset Commission has completed more than 93 licensing agency reviews. Sunset staff has documented standards in reviewing licensing programs to guide future reviews of licensing agencies. The following material highlights areas where the Board's statute and rules differ from these model standards and describes the potential benefits of conforming the Board's statute and rules to standard practices.

Nonstandard registration fee and renewal provisions of the Board's statute could reduce the agency's flexibility and efficiency.

- ***Flexible fees.*** The Legislature has established a practice in many programs of eliminating capped fee amounts in statute and allowing agencies to set fees by rule. This practice allows for greater administrative flexibility and is consistent with a provision in the General Appropriations Act that requires agencies to set fee amounts necessary to recover the cost of regulation. Limiting agency expenditures through the appropriations process discourages agencies from setting fees too high. The public has the opportunity to comment on proposed fees since the agency sets them in rule. Contrary to this approach, some Board fees are established in statute, as shown in the textbox, *Licensing and Administrative Fee Caps*.[1]

Licensing and Administrative Fee Caps

- Application Fee: $50
- Registration and Annual Renewal Fee: not less than $45 and not more than $75

- ***Renewal dates.*** An agency should have the authority to stagger license renewals to promote an even workload throughout the year. An agency should also have the flexibility to schedule license renewals to avoid holidays and major vacation periods. Currently, all tax professional registrations expire on December 31 of every year.[2] Appraisal districts and assessor-collector offices typically renew all their employees' registrations and certifications at the same time, which may affect the ability to stagger

renewals on an individual basis. Authorizing the Board, or its successor agency, to stagger renewal dates would enable it to determine the method that provides needed flexibility and makes best use of staff time and resources.

- ***Late renewal penalties.*** Licensees who fail to renew their licenses on time should pay a penalty set at a level that is reasonable to ensure timely payment, relates to the cost of renewing licenses, and provides flexibility to the agency to make changes as necessary. The Board's statute requires registrants who are more than 30 days late in renewing their registration to pay a late fee of $25. By statute, renewals are due by December 31, but the late fee does not apply unless a registrant renews after January 31. Registrants who do not renew by March 2 must reapply for registration.[3] A clearer, more consistent practice would be to require delinquent registrants to pay a late fee immediately after the renewal due date, based on the standard renewal fee, instead of an arbitrary flat fee set in statute. Doing so would provide more incentive to renew registrations on time, and would scale the late renewal penalty to the cost of renewing the registration. It would also ensure that tax professionals are treated the same as other individuals licensed by the State.

The Board's statute sets a flat $25 late renewal penalty.

Recommendations

Change in Statute

2.1 Eliminate licensing and administrative fee caps in statute and authorize the Board or its successor agency to set fees in rule.

This recommendation would give the Board or its successor agency greater flexibility to set fees as appropriate without prior legislative action. The recommendation would also provide flexibility in setting fees at the level necessary to recover program costs as conditions change. The Legislature would maintain control by setting spending levels in the General Appropriations Act.

2.2 Authorize the Board or its successor agency to adopt rules establishing a system under which registrations expire on various dates during the year.

This recommendation would eliminate the Board's current statutory language requiring all registrants to renew their registration annually by December 31, and would provide new authority to stagger renewal dates. The system of staggered renewal dates should not coincide with holidays or major vacation periods. Staggered renewal dates would allow a more balanced workload throughout the year, and tax professionals would avoid registration renewal during the holiday season. The Board or its successor would also have the flexibility to batch renewals by office instead of by individual registrant, so that appraisal districts and assessor-collector offices could renew all of their employees' registrations at the same time.

2.3 Tighten the timeframes for assessing late renewal fees and require those fees to be based on the standard registration renewal fee.

The renewal fee for registrants who are delinquent in renewing their registrations would be due immediately after the renewal due date, and would be based on the standard renewal fee. To renew a registration that has been expired for 30 days or less, the late renewal fee would be equal to 1-1/2 times

the standard renewal fee. If the license has been expired for more than 30 days, but less than 60 days, the late renewal fee would equal two times the standard renewal fee. This recommendation would maintain the existing statutory requirement that persons whose registrations have expired for more than 60 days must re-register with the Board or its successor agency.

Fiscal Implication

Removing the fee caps currently in statute would provide the Board or its successor agency with greater flexibility to set fees to recover the costs of regulation. While the agency would be able to increase its fees, the agency's budget would still be governed by the legislative appropriations process. Staggering renewal dates throughout the year is a procedural improvement that would not require additional resources. Changing the statutory basis for the late renewal penalty would increase the collection of late fees, but the potential increase in revenue is not likely to be significant, and was not estimated for this report.

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1 Texas Occupations Code, sec. 1151.154 and sec. 1151.158.

2 Texas Occupations Code, sec. 1151.158.

3 Texas Occupations Code, sec. 1151.159.

Responses to Issue 2

Recommendation 2.1

Eliminate licensing and administrative fee caps in statute and authorize the Board or its successor agency to set fees in rule.

Agency Response to 2.1

The Board agrees with this recommendation. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 2.1

None received.

Against 2.1

None received.

Recommendation 2.2

Authorize the Board or its successor agency to adopt rules establishing a system under which registrations expire on various dates during the year.

Agency Response to 2.2

The Board does not agree with this recommendation. The registrants are employed by governmental entities. Having one renewal period facilitates the renewal process for those entities. Expiration of employee registrations throughout the year would seriously increase the administrative burden on the approximately 1,100 entities with registrants. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 2.2

None received.

Against 2.2

None received.

Recommendation 2.3

Tighten the timeframes for assessing late renewal fees and require those fees to be based on the standard registration renewal fee.

Agency Response to 2.3

The Board does not agree with this recommendation. Keeping a static annual renewal date maintains a stable process for the registrants and the governmental entities that employ them. Renewals must go through the remittance process of the taxing entities and CADs during fiscal

Agency Response to 2.3 (continued)

and annual deadlines. The fees and penalties have been monitored to cover the cost of administration without placing undue burden on the local taxing jurisdictions. Increases in fees or penalties would serve to increase the cost to local governments. (David Montoya, Executive Director – Board of Tax Professional Examiners)

For 2.3

None received.

Against 2.3

None received.

Modification to Issue 2

1. Require the Texas Department of Licensing and Regulation, if it increases fees for the tax professional regulatory program, to make those increases effective on October 1st, to allow local jurisdictions to include them in their budgets. (Becky Watson, President – Tax Assessor-Collectors Association of Texas and Cass County Tax Assessor-Collector, Linden)

   Staff Comment: None of the recommendations in this issue would require TDLR to increase fees.

Commission Decision

Adopted Recommendations 2.1 through 2.3.

Legislative Action

House Bill 2447 eliminates licensing and administrative fee caps in statute and authorizes TDLR to set fees, with the advice of the tax professional advisory committee, at a level sufficient to cover program costs. (Recommendation 2.1)

The bill authorizes TDLR to adopt rules establishing a system under which registrations expire on various dates throughout the year and eliminates the requirement that all registrations expire on December 31. (Recommendation 2.2)

House Bill 2447 also removes language from statute governing late renewal of a registration, including the 30-day grace period. The Legislature modified the Sunset provision to allow TDLR to apply its standard late renewal timeframes and penalties to tax professionals. (Recommendation 2.3)

Agency Information

(November 2008)

Agency Information

Agency at a Glance

The mission of the Board of Tax Professional Examiners is to regulate tax professionals in Texas to ensure that those who appraise real property and assess and collect property taxes are knowledgeable, competent, and ethical. The Board registers elected assessor-collectors and certain employees of appraisal districts and local taxing entities, including counties, cities, and school districts. To accomplish its mission, the Board:

- registers tax appraisers, assessor-collectors, and collectors and monitors their progress toward certification;
- oversees the educational system necessary to achieve certification;
- administers tax professional certification exams and issues certificates upon passage; and
- enforces the Property Taxation Professional Certification Act and Board rules by monitoring compliance with education requirements, investigating complaints against tax professionals, and taking disciplinary action when necessary.

Information about the Board's regulation of tax professionals is available at www.txbtpe.state.tx.us.

Key Facts

- **Funding.** In fiscal year 2007, the Board collected nearly $275,000 in fees. The Board operated with a budget of $162,380 plus $63,168 in indirect costs. The appraisal districts and tax offices that employ the Board's registrants pay registration and exam fees, which cover all of the Board's administrative costs.
- **Staffing.** The Board employs three full-time employees and one part-time employee, all based in Austin.
- **Registration.** In fiscal year 2008, the Board regulated 3,728 tax professionals, 321 of whom were registered in more than one category. The Board's registrations included 2,492 appraisers, 1,148 assessor-collectors, and 409 collectors.
- **Courses and Exams.** In fiscal year 2007, the Board oversaw 172 courses on property tax topics and administered exams to 398 registrants.
- **Enforcement.** The Board resolved 24 complaints from the public in fiscal year 2008, resulting in letters of reprimand against three registrants.

Major Events in Agency History

1977 The Legislature mandates the registration and education of property tax professionals and creates the Tax Assessor Examiners Board. A separate agency, the School Tax Assessment Practices Board, provides continuing professional education to school tax assessors.

1979 The Legislature adopts the "Peveto Bill," codifying the state's property tax laws and creating the State Property Tax Board, in place of the School Tax Assessment Practices Board.

1983 The Legislature replaces the Tax Assessor Examiners Board with the Board of Tax Professional Examiners and creates the three types of professional registration that exist today.

1991 The Legislature abolishes the State Property Tax Board, transferring all but its education responsibilities to the Comptroller of Public Accounts and authorizing the Board of Tax Professional Examiners to establish requirements for a professional certification program.

Organization

Policy Body

The Board consists of four tax professionals and one public member.

The Board of Tax Professional Examiners consists of five members, including four tax professionals and one public member, appointed by the Governor to serve staggered, six-year terms. The Governor appoints a member of the Board to serve as chair. The table, *Board of Tax Professional Examiners,* identifies current Board members. The four tax professional members must:

- be actively engaged in property tax administration;
- have at least five years' experience in appraisal, assessment, or collection; and
- be certified by the agency.

Board of Tax Professional Examiners

Name	Qualification	City	Term Expires
D. Kristeen Roe, Chair	County Tax Assessor-Collector, Brazos County	Bryan	2013
Jim Childers, Vice Chair	Chief Appraiser, Potter Randall County Appraisal District	Canyon	2013
Linda Hatchel, Secretary	Public Member	Woodway	2009
Pollard Coates, IV	Chief Appraiser, Kerr County Appraisal District	Kerrville	2011
Steve Mossman	County Tax Assessor-Collector, Denton County	Flower Mound	2011

The Board establishes standards of professional practice, conduct, ethics, and education for tax professionals. The Board also determines appropriate sanctions for tax professionals who violate the law or rules and appoints the agency's Executive Director. The Board is required to meet quarterly. In fiscal year 2007, the Board met five times.

The Board has two advisory committees. The Instructor Advisory Committee advises the Board on instructor qualifications and maintaining qualified instructors to teach property tax courses, and consists of one Board member and four instructors. The Professional Standards Committee (PSC) obtains input from tax professionals and the Board about the education program and formulates changes when needed. PSC consists of representatives appointed by tax professional organizations.

The Board relies heavily on two advisory committees.

Staff

The Board has three full-time employees and one part-time employee, all based in Austin. The Executive Director manages the day-to-day operations of the agency and implements Board policy. The Board's staff administers and grades exams; processes registrations, renewals, and fees; investigates complaints; and oversees registrant professional education. The agency receives legal assistance from the Office of the Attorney General. Because of the small staff size, no analysis was prepared comparing the agency's workforce composition to the overall civilian labor force.

Funding

Revenues

Revenue raised through application fees, annual renewal fees, and examination fees are deposited into the General Revenue Fund to cover the Board's administrative costs. The table, *Tax Professional Fees*, lists the fee types and amounts that tax professionals pay to the Board. In fiscal year 2007, the agency raised $274,265 in fees.

Tax Professional Fees – FY 2007

Type of Fee	Amount	Total
Application		
Single	$105	$49,665
Dual*	$155	$1,085
Annual Renewal		
Single	$55	$163,845
Dual*	$105	$31,920
Exam		
For Certification	$80	$14,000
Not for Certification	$55	$10,670
Other Fees	Varies	$3,080
Total		**$274,265**

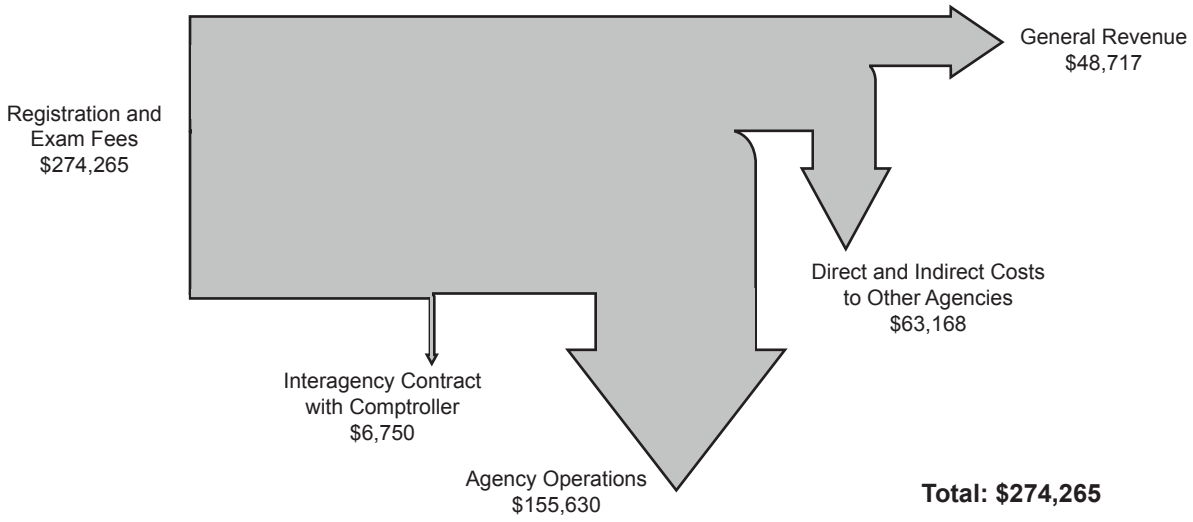
* Some tax professionals register in more than one area. For example, some register as both assessor-collectors and appraisers.

Expenditures

In fiscal year 2007, the Board spent $162,380 on two strategies: certification and indirect administration. The chart on the following page, *Flow of Agency Revenues and Expenditures*, shows the overall impact of the Board's regulation on the General Revenue Fund in fiscal year 2007.

Through an interagency contract, the Board pays a portion of its budget to the Office of the Comptroller of Public Accounts for certain administrative services, including technology support, payroll, human resources, and purchasing, among others. The contract totaled $6,750 for fiscal year 2007.

Flow of Agency Revenues and Expenditures
FY 2007



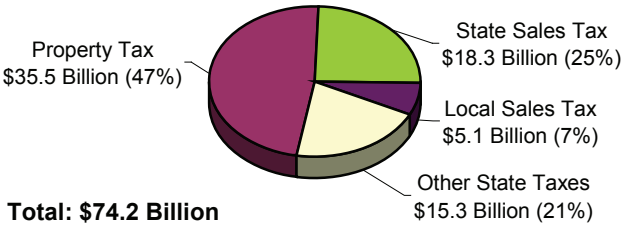
The Legislature has directed the Board and other licensing agencies that pay the costs of regulatory programs with fees levied on licensees to also cover direct and indirect costs appropriated to other agencies. Examples of these costs include a portion of the bond payment for the building in which the agency is housed, employee benefits paid by the Employees Retirement System, and utilities and property maintenance paid by the Texas Facilities Commission. In fiscal year 2007, these direct and indirect costs totaled $63,168 for the Board. Subtracting the agency's operating expenses and the direct and indirect costs incurred by other agencies from total revenues, the Board generated more than $48,000 for state purposes other than regulating tax professionals.

Appendix B describes the Board's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2004 to 2007. The Board uses HUBs in the categories of commodities and other services. The agency has surpassed the goal for spending in both categories.

Texas Property Tax System Overview

Property taxes are the primary source of funding for local government services in Texas, including public schools, roads, fire and police departments, emergency services, libraries, hospitals, and community colleges. Of all the tax revenue collected in Texas on the state and local levels, property taxes make up nearly half of the total, as shown in the pie chart, *Texas Taxes*. [1]

Texas Taxes – 2006



Property owners pay taxes to multiple local taxing districts, including school districts and county and city governments. The table, *Local Taxing*

Districts in Texas, shows the different types of taxing districts in the state and how much revenue property taxes generated for each type in 2006.[2] School districts alone receive about 60 percent of all property tax revenue in Texas.

Local Taxing Districts in Texas – 2006

Type of District	Number	Revenue Generated
School districts	1,027	$20.92 Billion
County governments	254	$5.34 Billion
City governments	1,044	$5.32 Billion
Special purpose districts for hospitals, community colleges, emergency services, flood control, public utilities, and roads, among others.	1,433	$3.97 Billion
Total	**3,758**	**$35.55 Billion**

The local property tax system consists of four parts: appraisal districts, appraisal review boards, local taxing districts, and county assessor-collectors. Each county has an appraisal district, financed by the local taxing districts, that sets the taxable value of real property. If taxpayers do not agree with the appraisal district's opinion on the value of their property, they may appeal the appraisal to a local appraisal review board (ARB). The ARB hears appeals and makes decisions on property taxpayers' appraisal protests. Local taxing districts set tax rates based on their budgetary needs. Each county elects a tax assessor-collector to assess and collect property taxes, based on the appraised value of property, on behalf of the taxing districts located in the county. Appraisal districts and assessor-collector offices may also contract with private firms or other local jurisdictions for appraisal services and for assessing and collecting property taxes.

Though property taxes are a local function, the State has a limited oversight role through both the Board of Tax Professional Examiners and the Comptroller of Public Accounts' Property Tax Division. The Board's functions are discussed in the following section. The Comptroller is responsible for:

- conducting an annual property value study to measure appraisal districts' performance and ensure equitable distribution of state funding for school districts;
- conducting appraisal standards reviews and performance audits of appraisal districts that do not meet certain standards;
- training newly-appointed members of local appraisal review boards; and
- providing technical assistance to taxpayers, taxing entities, tax professionals, and others with an interest in property taxes.

Neither the Board nor the Comptroller has responsibility for resolving disputes over the appraised value of property.

Neither agency has responsibility for overseeing appraisal review boards or for resolving disputes over the appraised value of property. In addition, neither enforces provisions in state law governing how appraisal districts and taxing entities are supposed to conduct their business.

Agency Operations

As the State's regulator of property tax professionals, the Board registers and certifies tax appraisers, assessor-collectors, and collectors and enforces provisions in statute and Board rules relating to these professionals. The following material describes the process for regulating these tax professionals, and for enforcing ethical standards against tax professionals, as necessary.

Registration

The Board regulates three types of tax professionals – property tax appraisers, tax assessor-collectors, and tax collectors.

Appraisers

Appraisers establish the taxable value of real property. Anyone performing an appraisal for property tax purposes must be registered with the Board. Almost all property tax appraisers work for county appraisal districts, but about 120 of the Board's registered appraisers work for private firms that contract with appraisal districts to perform special types of appraisals.

Assessor-Collectors

Assessor-collectors use a property's appraised value to assign a tax rate and collect the tax from the property's owner. Each county's elected tax assessor-collector, with some exceptions, and the head tax assessor-collector of any school district or other taxing unit must be registered with the Board. Employees working under these chief assessor-collectors may also register, but are not required to do so by state law. Sixty-one county assessor-collectors contract out property tax functions to other entities, usually appraisal districts. Because these assessor-collectors do not assess and collect property taxes, they are not registered with the Board.

Tax professionals must first register with the Board, and then work toward certification.

Collectors

Collectors are responsible for collecting property taxes only, and not assessing. Collectors work for county tax assessor-collectors and for collections divisions in school districts and other taxing units. Employees working under a chief assessor-collector may register as collectors, but are not required to do so under state law.

Eligibility Requirements

To be eligible for registration with the Board, an applicant must:

- be at least 18 years of age;
- reside in Texas;
- be of good moral character;
- be a graduate of an accredited high school or establish high school graduation equivalency; and
- be employed as an appraiser, assessor-collector, or collector.

Tax professionals must first register with the Board and then work toward certification. The textbox, *Eligibility Requirements*, lists the requirements for registration with the Board. The table on the following page, *Registrant Information*, provides the number of registrants and the percentage who were certified in fiscal year 2008.

Registrant Information – FY 2008

	Appraisers	Assessor-Collectors	Collectors
Number of Registrants	2,492	1,148	409
Percent of Registrants Who Are Certified	63%	73%	65%

Certification

To become certified, registrants must meet the Board's coursework, experience, and exam requirements, as shown in the table, *Certification Requirements*. While the Board defines the certification requirements tax professionals must meet and sets qualifications for and approves course instructors, property tax professional organizations manage the education program by developing and updating courses and exams. The seven professional organizations, as listed in the textbox on the following page, *Tax Professional Associations,* created the Property Tax Education Coalition (PTEC) in 1996 to maintain the education program. Using input from the Professional Standards Committee, PTEC updates all courses and exams every two years and implements other program changes as necessary.

Certification Requirements

	Registered Professional Appraiser	Registered Texas Assessor-Collector	Registered Texas Collector
Time to complete certification requirements	5 years	5 years	3 years
Required coursework	◆ Intro to the Texas Property Tax System ◆ Property Tax Professional Ethics ◆ Appraisal of Real Property ◆ Income Approach to Value ◆ Appraisal of Personal Property ◆ Mass Appraisal ◆ Appraisal Analysis or demonstration appraisal ◆ Property Tax Law ◆ Uniform Standards of Professional Appraisal Practice	◆ Intro to the Texas Property Tax System ◆ Property Tax Professional Ethics ◆ Property Tax Law ◆ Assessing and Collecting ◆ Advanced Assessing and Collecting ◆ Ad Valorem Tax Office Administration ◆ Two electives	◆ Intro to the Texas Property Tax System ◆ Property Tax Professional Ethics ◆ Property Tax Law ◆ Assessing and Collecting ◆ Advanced Assessing and Collecting ◆ Ad Valorem Tax Office Administration
Required exams	◆ Class III Appraiser Exam ◆ Certification Exam	◆ Class III Assessing-Collecting Exam ◆ Certification Exam	◆ Certification Exam
Continuing education requirements	◆ 75 continuing education units every five years, to include an ethics course	◆ 75 continuing education units every five years, to include an ethics course	◆ 25 continuing education units every five years, to include an ethics course

Associations that are members of PTEC sponsor courses mainly in Austin, though PTEC allows secondary sponsors, such as individual appraisal districts, to offer courses in their area. Courses are classroom-based and taught by instructors who meet the Board's qualifications and training requirements.

Tax Professional Associations

- Texas Association of Appraisal Districts
- Texas Association of Assessing Officers
- Texas Association of Municipal Tax Administrators
- Texas Assessor-Collector Association
- Texas School Assessors Association
- Metropolitan Council of Appraisal Districts
- Texas Rural Chief Appraisers

Appraisal districts and assessor-collector offices pay the course fees for their employees. A portion of the course fees go to PTEC to manage the education program.

The Board's Executive Director administers and grades all exams required for certification, usually four times per year. The Board offers exams in Austin, but also offers them in other areas of the state depending on demand. In fiscal year 2007, the Board administered exams to 398 registrants in Austin, Amarillo, Laredo, San Antonio, Brownsville, Dallas, and Houston.

Enforcement

The Board regulates tax professionals by investigating complaints against registrants and, if necessary, taking enforcement action against violators of the Property Taxation Professional Certification Act and Board rules. The Board has established, through rules, ethical standards for tax professionals, and any violation of these standards may result in sanctions. The textbox, *Tax Professionals Code of Ethics*, describes the oath all tax professionals take when they become registered. Most of the complaints the agency receives allege violations of this code of ethics or the Board's standards of ethical conduct, as shown in the table on the following page, *Tax Professionals Ethical Conduct Standards*. The Board may also investigate complaints alleging that an appraisal district board of directors or a governing body made a registrant act in an unprofessional manner or otherwise violate the law or rules as a necessity for employment. Failure to register with the Board, for persons required to register, is a Class C misdemeanor.

Tax Professionals Code of Ethics

Registrants agree to:

- Apply laws, rules, methods, and procedures uniformly to all taxpayers.
- Not accept gifts from any party unless totally unrelated to duties as appraiser, assessor, or collector.
- Not use information gained in connection with job duties for personal benefit unless information is accessible to ordinary citizens.
- Not accept assignments with the expectation of reporting a predetermined appraisal value or predetermined findings.
- Not speak or act in any manner or engage in any practice that is dishonest, fraudulent, deceptive, or in violation of law or common standards of morality.
- Uphold the honor and dignity of the property tax profession.

The Board relies on complaints from the public and other tax professionals, as well as newspaper reports, to uncover violations. When the Board receives a complaint, the Executive Director notifies the tax professional named in the complaint and allows the tax professional up to 20 days to respond. A complaint committee, consisting of the Executive Director, the Board's representative from the Attorney General's Office, and the Board's Chair, reviews the complaint. The committee determines whether to

dismiss the complaint for lack of jurisdiction or conduct an investigation. An investigation entails reviewing materials submitted by the complainant and respondent and requesting additional documentation if needed. If the committee finds that a violation occurred, it will recommend an appropriate disciplinary action to the full Board. Sanctions available to the Board include a letter of reprimand, probation, registration denial, suspension, and revocation.

Tax Professionals Ethical Conduct Standards

Type	Example
General	Perform duties in compliance with laws and regulations.
Improper Influence	Shall not accept nor solicit favorable treatment in a decision regarding property value.
Conflict of Interest	Shall not engage in outside employment that adversely affects the registrant's impartiality in executing his or her duties.
Unfair Treatment, Discrimination	Shall not deviate from lawful exemption, appraisal, or collection methods or generally accepted procedures in order to unfairly benefit or disadvantage any person of interest.
Abuse of Powers	Shall not use agency resources for personal benefit.
Use of Titles	Shall not use certification titles in connection with a private business venture.

The table, *Complaint Activity,* details the number of complaints received by the Board and the disposition of all complaints in the past four fiscal years. The Board has put one registrant on probation, while the other eight disciplinary actions have been reprimands.

Complaint Activity

	FY 05	FY 06	FY 07	FY 08
Complaints Received				
From the public	12	21	19	19
Initiated by the agency	0	0	1	0
Total Received	**12**	**21**	**20**	**19**
Complaints Pending from Previous Year	**2**	**2**	**4**	**7**
Complaints Resolved				
Dismissed/lack of jurisdiction	4	1	3	0
Dismissed/lack of evidence	7	17	11	21
Resignation of registrant	1	0	0	0
Complaints resulting in disciplinary action*	0	1	3	3
◆ Individuals placed on probation	0	0	1	0
◆ Individuals receiving letters of reprimand	0	2	3	3
Total Resolved	**12**	**19**	**17**	**24**
Complaints Pending at End of Fiscal Year	**2**	**4**	**7**	**2**

* One complaint may result in disciplinary action against multiple registrants.

In addition to taking enforcement action against violators of the agency's ethical standards, the Board enforces education requirements. The Board may revoke the registration of a tax professional who fails to meet education requirements within certain timeframes, but often works with registrants to

gain compliance before resorting to revocation. The table, *Registrants Failing to Meet Education Requirements*, shows the number of registrations the Board cancelled due to registrants' failure to meet education requirements from fiscal year 2005 to 2008.

Registrants Failing to Meet Education Requirements, FYs 2005 – 2008

Fiscal Year	Registrations Cancelled
2005	12
2006	23
2007	13
2008	14

[1] Texas Comptroller of Public Accounts, *Annual Property Tax Report: Tax Year 2006*, ch. 1, "Focus on Statewide Taxes," (Austin, Texas, January 2008). Online. Available: http://www.window.state.tx.us/taxinfo/proptax/annual06/ch01.html. Accessed: August 21, 2008.

[2] Ibid.

Appendices

Appendix A

Summary of Complaints Resolved – FY 2007

Nature of Complaint	Registrant Response	Board Action
Taxpayer submits complaint against appraisal district, alleging an appraiser behaved unethically. She provides a transcript of comments the appraiser allegedly made that she believes were unethical.	Registrant disputes claims made by taxpayer, claiming that the taxpayer is upset with her appraisal.	The Board reprimands the registrant, expressing concern about his verbal exchange with the complainant. The Board informs the complainant about the letter of reprimand.
Taxpayer submits complaint against a chief appraiser, alleging his property was not classified properly and the appraisal district failed to follow state tax laws by not providing him with information before his hearing with the appraisal review board.	Registrant claims complainant was unhappy with his appraisal and that the appraisal district followed all relevant laws and rules.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging the appraisal district violated state law by not providing him with certain information related to his appraisal review board hearing, and that the appraisal district is not uniformly appraising property.	Registrant responds that the appraisal district provided the complainant with information requested and that the district uses the appropriate procedures for appraising property.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint against an appraiser, alleging the appraiser behaved unethically by offering to buy the complainant's son's property for the appraised value and by referring taxpayers to a fee appraiser who is a member of the appraiser's family.	The appraisal district responds and explains the appraiser did not violate any of the Board's ethics rules.	The Board issues two letters of reprimand, one to the Chief Appraiser and the other to the appraiser the complainant accused of unethical conduct. The Board found that this appraiser's behavior could give the appearance of being unethical even though it did not technically violate any Board rules. The Board also found that the appraisal district defended the appraiser when it should have condemned her behavior, and the Board reprimanded the Chief Appraiser for this reason.
Taxpayer submits complaint alleging the appraisal district acted inappropriately by denying a tax exemption and then charging penalties for unpaid taxes.	The appraisal district claims it granted an exemption for the property but later cancelled the exemption because the owners did not comply with state law for maintaining the exemption.	The Board dismisses the complaint for lack of evidence.

Appendix A

Summary of Complaints Resolved – FY 2007

Nature of Complaint	Registrant Response	Board Action
Taxpayer submits complaint alleging the assessor-collector charged her late penalties and interest on taxes she claims she paid.	The assessor-collector responds that the complainant's outstanding taxes are with the school district and need to be resolved through the school district.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging a chief appraiser is using her office for personal use, granting tax exemptions in exchange for gifts, and not taxing property of a man the chief appraiser is romantically involved with.	The Board does not contact the registrant. The Board asks the complainant for more documentation, and received none.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging a chief appraiser lied about her experience level on her application for employment.	Respondent explains through attorneys that her application was correct.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging the appraisal district had illegally transferred the deed on his property to his daughter. He claims the property was a gift from her.	The appraisal district responds that it has no authority over property ownership, and that a court ruled that the initial transfer of deed to the complainant was a forgery.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging the appraisal district committed an ethical violation by not responding to a request he made under the Open Meetings Act.	The Board deems the complaint non-jurisdictional and does not solicit a response.	The Board forwards the complaint to the Office of the Attorney General. The Board informs the complainant that his complaint refers to a violation of the Open Records Act instead of the Open Meetings Act.
Taxpayer submits complaint alleging that the appraisal review board did not follow its own procedures.	The Board deems the complaint non-jurisdictional and does not solicit a response.	The Board tells the complainant it has no authority over the appraisal review board's operations.
Taxpayer submits complaint alleging a chief appraiser failed to follow proper protest procedures because he did not attend the complainant's appraisal review hearing.	The Board deems the complaint non-jurisdictional and does not solicit a response.	The Board tells the complainant it has no authority over the appraisal review process. The Board explains that the appraiser is not legally required to attend every appraisal review hearing.
The Board initiates a complaint after reading a newspaper article about two appraisers accused of improperly granting themselves tax exemptions.	The appraisal district cancels the exemptions of both appraisers, and fires one appraiser and reprimands the other.	The Board could not take action against the appraiser, who was fired, because her registration was cancelled upon termination. The Board put the other appraiser on probation because she was still employed at the appraisal district.

Appendix A

Summary of Complaints Resolved – FY 2007

Nature of Complaint	Registrant Response	Board Action
Taxpayer submits complaint alleging an assessor-collector acted unethically by using office postage to send a piece of personal mail.	The assessor-collector responds that she inadvertently used office postage for personal use once, but immediately reimbursed the tax office.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging an appraisal district is not uniformly appraising property in a certain neighborhood and granting preferential treatment to an elected official.	The appraisal district explains that some properties the complainant refers to had homestead exemptions and others did not. Also, some properties were sold during the year in question, eliminating their exemptions.	The Board dismisses the complaint for lack of evidence.
Taxpayer submits complaint alleging his appraisal district improperly placed his property inside city limits that had not been correctly surveyed.	The appraisal district responds that it does not survey land and has no authority to fix the problem.	The Board dismisses the complaint for lack of evidence.
An appraisal district employee submits complaint alleging she had been harassed in the workplace.	The Board does not solicit a response from the appraisal district because the complaint was non-jurisdictional.	The Board forwards the complaint to the Equal Employment Opportunity Commission.

Appendix B

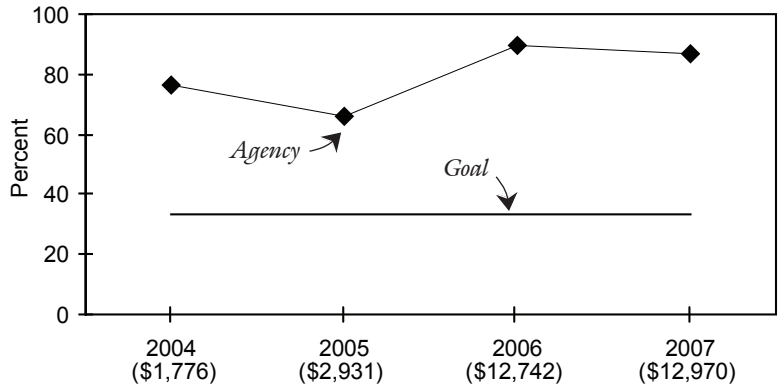
Historically Underutilized Businesses Statistics

2004 to 2007

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.[1]

The following material shows trend information for the Board of Tax Professional Examiners' use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.[2] In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2004 to 2007. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The Board of Tax Professional Examiners exceeded the State's HUB purchasing goals, but has not established a HUB policy in rule. The Board has made no purchases in the heavy construction, building construction, special trade, or professional services categories.

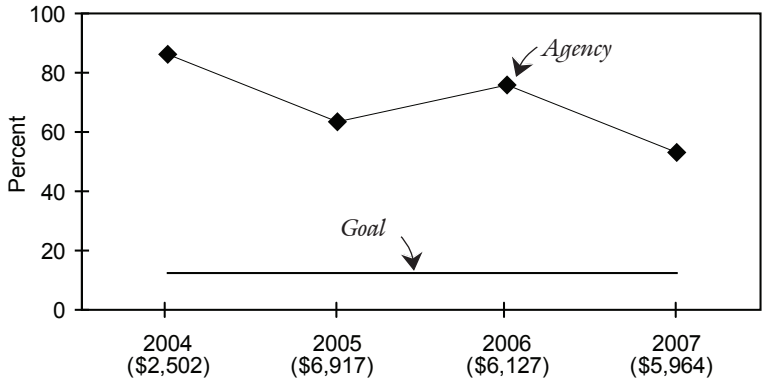
Other Services



The Board has consistently exceeded the goal for spending on other services.

Appendix B

Commodities



The Board has consistently exceeded the goal for spending on commodities.

1 Texas Government Code, sec. 325.011(9)(B).

2 Texas Government Code, ch. 2161.

Appendix C

Staff Review Activities

During the review of the Board of Tax Professional Examiners, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; spoke with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this agency.

- Attended meetings, reviewed meeting minutes, and interviewed members of the Board of Tax Professional Examiners.
- Met with staff from the Office of the Comptroller of Public Accounts and Texas Department of Licensing and Regulation.
- Reviewed all of the agency's complaint files for fiscal years 2006, 2007, and 2008.

New Issues

New Issues

The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

3. Provide minimum qualifications for serving as a chief appraiser, such that a chief appraiser must meet higher qualifications than those required of regular appraisers before being appointed to that position. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

4. Require appraisers to meet certain classification, experience, and proficiency requirements before performing certain duties within an appraisal district, such as supervisory functions or complex appraisals. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

5. Require appraisers to complete accredited real estate appraisal courses prior to registration and specify additional requirements and continuing education for appraising more complex properties. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

6. Require tax professionals to complete continuing education courses in property tax law and the appraisal system every two years. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

   Staff Comment: The Board currently requires registered appraisers and assessor-collectors to complete 75 hours of continuing education every five years. As part of those 75 hours, appraisers and assessor-collectors must complete one ethics course. Appraisers must also complete courses in the Uniform Standards of Professional Appraisal Practice to satisfy their continuing education requirement.

7. Provide independent state-level oversight of appraisal review boards. (Michele Gregg, Director of Legislative and Political Affairs – Texas Apartment Association, Austin)

8. Allow appraisal districts and tax offices to determine, according to their funding and approval by their boards of directors, whether they will comply with educational requirements for their registered employees. (Becky Watson, President – Tax Assessor-Collectors Association of Texas and Cass County Tax Assessor-Collector, Linden)

9. Require the State to set the cost of education courses given in Austin and allow discounts if they are offered locally when the instructor is not paid. (Becky Watson, President – Tax Assessor-Collectors Association of Texas and Cass County Tax Assessor-Collector, Linden)

Commission Decision

The Commission did not adopt any of the new issues.

Legislative Action

No action needed.

Provisions Added by Legislature

Provisions Added by Legislature

1. Strengthen education and examination requirements for tax professionals and conform them with TDLR's other regulatory programs.

The Legislature added several provisions to H.B. 2447 related to tax professional education and examinations. The bill requires TDLR to establish standards of professional practice, conduct, education, and ethics for tax professionals. The bill allows the Commission on Licensing and Regulation and the Comptroller to set fees for continuing education courses and providers in amounts reasonable and necessary to cover the two agencies' costs in administering the continuing education program. The bill removes a requirement for TDLR or a provider approved by TDLR to provide the Chief Appraiser Training Program.

House Bill 2447 requires the Commission to require registrants to pass one or more examinations to be certified. The bill removes existing statutory language specifying how an applicant must apply to take an exam and instead allows TDLR to prescribe the process for applying for an exam. The bill allows TDLR to contract out for the development and administration of exams and the collection of exam fees. The bill also allows the Comptroller to contract or enter into a memorandum of understanding with other entities to sponsor education programs.

2. Expand TDLR's authority to investigate complaints and take enforcement action against tax professionals.

The Legislature added several provisions to H.B. 2447 regarding complaints from the public and TDLR's enforcement authority for tax professionals. The bill clarifies that TDLR can dismiss without a hearing complaints challenging the appraised value of a property or another matter for which the Tax Code already specifies a remedy if the complaint does not allege a violation of a law or rule regulating tax professionals. The bill also allows the public to file a complaint against a tax professional for any violation of statute or rules, rather than only against a tax professional for not being properly registered.

House Bill 2447 allows TDLR to take any disciplinary action described in TDLR's statute against a person who violates a law or rule regulating tax professionals. Before imposing an administrative penalty against a registrant, TDLR must consider certain mitigating factors, such as whether the tax professional was acting in good faith to implement an order from above or had discretion over the matter on which the complaint was based. The bill also makes it an offense for a person to practice with an inactive registration, rather than only while a person's registration is revoked or suspended.

3. Conform administrative fee provisions in the Property Taxation Professional Certification Act with similar provisions for TDLR's other regulatory programs.

The Legislature added two provisions to H.B. 2447 regarding administrative fees for tax professionals. The bill makes the registration fee nonrefundable, even if TDLR disapproves an application. The bill also repeals language prohibiting the Board from waiving the collection of a fee or penalty.

Sunset Staff Review of the Board of Tax Professional Examiners

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