

# SUNSET ADVISORY COMMISSION

## — COMPLIANCE REPORT —

Implementation of  
2007 Sunset Legislation

January 2009



# Sunset Advisory Commission



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

# IMPLEMENTATION OF **2007** SUNSET LEGISLATION



COMPLIANCE REPORT  
JANUARY 2009

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# SUMMARY



# Summary

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The Sunset Act requires the Sunset Commission to review the ways in which agencies implement Sunset bill provisions in the session following their Sunset review. This review helps ensure that agencies fully implement changes adopted by the Legislature through the Sunset process.

In 2007, the 80th Legislature passed 15 bills containing changes recommended by the Sunset Commission. These bills contained a total of 302 provisions requiring action by the agencies involved. Sunset staff worked with each agency impacted by these provisions to follow up on their efforts to implement the required changes.

Sunset staff found many major changes have been made by these agencies based on directives contained in the Sunset legislation from 2007. Key changes implemented as a part of the Sunset process included the following.

- ◆ Creating a Criminal Justice Legislative Oversight Committee to provide objective research, analysis, and recommendations to help guide state criminal justice policies, including assessing the use and results of additional treatment and rehabilitation funding recommended by the Sunset Commission and appropriated by the Legislature to the Texas Department of Criminal Justice.
- ◆ Updating the Texas Alcoholic Beverage Commission's mission to better reflect the agency's role in protecting public safety and regulating the modern alcoholic beverage industry.
- ◆ Streamlining the Texas Nurse Board's process for approving nurse education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nurse education.
- ◆ Abolishing the Texas Structural Pest Control Board, transferring its functions to the Texas Department of Agriculture, and developing a risk-based approach to inspections.

While the majority of statutory provisions have been implemented, the chart, *Implementation Results*, shows that a number of provisions have not yet been fully put into action.

The chart on the following page, *Implementation Results by Agency*, shows the progress of each agency in implementing its statutory changes. Detailed information on the status of each statutory provision that is in progress, partially implemented, or not implemented is provided in the following material.

In addition to statutory changes, the Sunset Commission adopted 50 management recommendations for improvements to agency operations. The State Auditor evaluated the implementation of a select number of these management recommendations and the Auditor's findings are contained in SAO Report number 08-041, which is included in this report following the agency exception charts.

**Implementation Results**

Status of Provisions	Number	Percentage
Implemented	279	92%
In Progress	18	6%
Partially Implemented	1	<1%
Not Implemented	4	1%
<b>Total</b>	<b>302</b>	<b>100%</b>

**Implementation Results by Agency**

Agency	Bill Number	Changes Required	Changes Implemented	In Progress	Partially Implemented	Not Implemented
Alcoholic Beverage Commission, Texas	S.B. 904	30	29	1		
Animal Health Commission, Texas	H.B. 2543	15	15			
Arts, Texas Commission on the	H.B. 2460	7	7			
Criminal Justice, Department of	S.B. 909	26	19	6	1	
Correctional Managed Health Care Committee	S.B. 909	6	6			
Higher Education Tuition Board, Prepaid	H.B. 2173	9	9			
Historical Commission, Texas	H.B. 12	12	10	1		1
Library and Archives Commission, Texas State	S.B. 913	12	12			
Nursing, Texas Board of	H.B. 2426	42	41	1		
Pardons and Paroles, Board of	S.B. 909	12	9	1		2
Real Estate Commission, Texas	S.B. 914	31	29	2		
Risk Management, State Office of	S.B. 908	14	12	1		1
Rural Community Affairs, Office of	H.B. 2542	13	13			
Structural Pest Control Regulation	H.B. 2458	16	13	3		
Teacher Retirement System of Texas	H.B. 2427	14	14			
Veterans Commission, Texas	H.B. 3426	27	27			
Veterans' Land Board	H.B. 3140	12	10	2		
Veterinary Medical Diagnostic Laboratory, Texas	H.B. 2024	4	4			
<b>Totals</b>		<b>302</b>	<b>279</b>	<b>18</b>	<b>1</b>	<b>4</b>

# PROVISIONS





# Provisions

## *In Progress, Partially Implemented, or Not Implemented*

### **Implementation of 2007 Sunset Legislation**

<b>Texas Alcoholic Beverage Commission – S.B. 904</b>		
<p>Senate Bill 904, as adopted by the 80th Legislature, continued the Texas Alcoholic Beverage Commission for 12 years. The legislation included a total of 30 changes requiring action. The following chart summarizes one provision that is still in progress and provides its status.</p>		
<b>Bill Provision</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
<p>1. Requires the Commission to reduce delays in the licensing process by providing for online license application, renewal, and payment of fees.</p>	<b>In Progress</b>	<p>The agency is working with the Department of Information Resources and the Governor's Office to conduct a pilot project that will allow businesses to complete online license applications. The pilot project is scheduled to be implemented in January 2009.</p>

<b>Texas Department of Criminal Justice – S.B. 909</b>		
<p>Senate Bill 909, as adopted by the 80th Legislature, continued the Texas Department of Criminal Justice (TDCJ) for four years and included a total of 26 changes requiring action by TDCJ. The following chart provides the status of one provision that is partially implemented and six provisions that are still in progress.</p>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
<p>1. TDCJ should conduct routine program evaluations of all rehabilitation programs designed to reduce reincarcerations and revocations, and report the findings to the Legislature.</p>	<b>In Progress</b>	<p>TDCJ created a new position for the purpose of conducting evaluations of rehabilitation programs designed to reduce recidivism. A report will be submitted to the Legislature by January 13, 2009.</p>
<p>2. Prohibits TDCJ from prohibiting a parole panel from requiring an inmate to participate in and complete a treatment program, regardless of available capacity in the program, prior to being paroled.</p>	<b>In Progress</b>	<p>TDCJ gives the Board of Pardons and Paroles (Parole Board) a weekly report regarding the ineligibility of certain offenders for a treatment program for reasons such as custody status or medical condition. To complement this report, TDCJ is developing as part of its mainframe system, a way to show an offender's eligibility status prior to the parole panel decision. This capability should be operational in three to six months and available to both TDCJ and the Parole Board.</p>

## Implementation of 2007 Sunset Legislation

Texas Department of Criminal Justice – S.B. 909 (conitnued)		
Bill Provisions	Implementation	
	Status	Comments
		Also, TDCJ and the Parole Board formed a work group to develop a report containing useful information for the parole panel to have when making a parole decision, such as available capacity and approximate wait times for TDCJ treatment programs. TDCJ estimates it will begin submitting this report to the Parole Board in January 2009.
3. Authorizes TDCJ’s director to meet regularly with an eligible state employee organization that represents department employees in disciplinary or grievance matters to review matters of interest to both TDCJ and the employee organization, including the operation of TDCJ facilities, and issues that could negatively affect employee retention and recruitment. Requires the director to submit a report to the Criminal Justice Legislative Oversight Committee on the outcome of these meetings.	<b>Partially Implemented</b>	The TDCJ Executive Director and other senior staff continued the practice of periodic meetings with various employee organizations such as the American Federation of State, County, and Municipal Employees Union and Texas Public Employees Association. Given the permissive language authorizing these meetings, no report on the outcomes of these meetings was produced.
4. Provides that TDCJ can only conduct a taste test if they contract with a private marketing vendor, a university, or other independent organization experienced in food product evaluation and taste tests to perform it. Requires the taste test to be re-conducted annually. TDCJ cannot use the taste test results for more than 30 percent of the criteria used for the bid award. Authorizes TDCJ to provide for the practice of bundling products to ensure savings through bulk purchasing, discounts for advance payments, and online ordering.	<b>In Progress</b>	TDCJ is finalizing a contract with Texas A&M to conduct taste tests of commissary products. TDCJ anticipates executing the contract by February 1, 2009, before solicitations are issued for the purchase of commissary items for fiscal year 2010. TDCJ plans to revise its bid award policies as soon as the contract is executed. The contract details the process that will be used. Although the current solicitations allow for a taste test, TDCJ has not conducted taste tests on commissary items since S.B. 909 went into effect, and commissary purchases have been awarded to the low bidder meeting specifications.
5. Requires TDCJ to conduct a feasibility study of relocating the Central Prison Unit in Sugar Land to a more compatible location. Specifies TDCJ should study the costs and benefits associated with relocation, appropriate measures to ensure that adequate easements are granted to allow development of surrounding lands, and an anticipated timeline if relocation is determined for being in the best interests of TDCJ and Sugar Land.	<b>In Progress</b>	TDCJ’s work group on the feasibility study is analyzing the information gathered regarding relocation of the Central Prison Unit and surrounding unit housing. TDCJ will submit a report to the Legislature not later than January 13, 2009.

### **Implementation of 2007 Sunset Legislation**

<b>Texas Department of Criminal Justice – S.B. 909 (continued)</b>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
<p>6. Requires TDCJ to study using GPS tracking and electronic monitoring devices for people on parole, and report the findings to the Legislature by December 1, 2009.</p>	<b>In Progress</b>	<p>TDCJ continues to examine documentation and electronic media to identify different types of electronic monitoring, as well as coordinate testing of such equipment as it becomes available. All findings will be reported to the Legislature by December 1, 2009.</p>
<p>7. Requires TDCJ to conduct a study on the number of inmates who pose no significant risk of recidivism or danger to society because of their age, nature of the crime, or successful rehabilitation. The study must include alternatives to confining these inmates in a TDCJ facility, conducting a prisoner exchange program with foreign countries, and measures that TDCJ can take to assure offenders sent to another country under a prisoner exchange program are not released early. Requires TDCJ to submit the report to the 81st Legislature.</p>	<b>In Progress</b>	<p>TDCJ continues work on this report and will submit the report to the Legislature prior to the 81st Legislative Session.</p>

## Implementation of 2007 Sunset Legislation

<b>Texas Historical Commission – H.B. 12</b>		
<p>House Bill 12, as adopted by the 80th Legislature, continued the Texas Historical Commission (THC) for 12 years. The legislation included a total of 12 changes requiring action. The following chart summarizes the two provisions that have not been implemented or are in progress, and provides the status of each.</p>		
Bill Provisions	Implementation	
	Status	Comments
<p>1. Require THC to approach the marker program more strategically by awarding a more limited number of markers based on statewide themes and significance.</p>	<p><b>Not Implemented</b></p>	<p>This provision required three actions, including: requiring the Commission to develop statewide themes for the historical marker program related to the Commission’s overall preservation goals; requiring the Commission to establish a limit for the number of markers the Commission awards annually; and requiring the Commission to adopt rules establishing guidelines for the marker application, including guidelines for the Commission’s review of the application, criteria for ranking the application, and requiring the Commission to give priority to markers that relate to the statewide themes developed by the Commission. The agency has not implemented any of these items.</p>
<p>2. Adds standard Sunset language requiring the board to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.</p>	<p><b>In Progress</b></p>	<p>The agency has designated a person at the agency who has completed alternative dispute resolution training and developed a policy relating to negotiated rulemaking and alternative dispute resolution, which needs to be approved by the Commission.</p>

<b>Texas Board of Nursing – H.B. 2426</b>		
<p>House Bill 2426, as adopted by the 80th Legislature, continued and renames the Texas Board of Nursing for 10 years. The legislation included a total of 42 changes requiring action. The following chart summarizes one provision that is in progress.</p>		
Bill Provisions	Implementation	
	Status	Comments
<p>1. Enacts and enters into the National Council of State Boards of Nursing (NCSBN) Advanced Practice Registered Nurse Compact to provide for cooperation of party states for licensure, authority to practice, and regulation of advanced practice nurses. Provides for the Board to adopt rules necessary for implementation of the Compact by December 31, 2011 or the authority to implement the Compact expires.</p>	<p><b>In Progress</b></p>	<p>The Board is currently reviewing its rules related to advanced practice recognition for the purpose of preparing to implement the Advanced Practice Registered Nurse Compact. The first section of rule amendments was considered for adoption by the Board at the October 2008 Board meeting. Input is being sought from the Board’s Advanced Practice Nurse Advisory Committee. The Board will also collaborate with the other states that have statutory authority to implement the compact.</p>

## Implementation of 2007 Sunset Legislation

### Texas Board of Pardons and Paroles – S.B. 909

Senate Bill 909, as adopted by the 80th Legislature, included a total of 12 changes requiring action by the Board of Pardons and Paroles. The following chart summarizes one provision that is still in progress, and two that have not been implemented.

Bill Provisions	Implementation	
	Status	Comments
<p>1. Requires the parole guidelines to take into consideration an inmate's progress in any programs in which the inmate participated during the inmate's term of confinement.</p>	<p><b>Not Implemented</b></p>	<p>According to the outside expert hired by the Parole Board to review the Board's parole guidelines, the Board cannot include the inmate's progress in any programs in the parole guidelines until the programs are evaluated for effectiveness in accordance with Government Code 493.0083. This statute requires TDCJ to "determine the effectiveness of rehabilitation and reintegration programs and services provided to inmates and other offenders under the jurisdiction of the department." According to TDCJ, the Department created a new position for the purpose of conducting evaluations of rehabilitation programs designed to reduce recidivism. A report will be submitted to the Legislature by December 31, 2008.</p>
<p>2. Requires the parole panel members who deviate from the guidelines to provide a detailed, written statement explaining the specific reasons for the deviation. This requirement applies to parole decisions made on or after the effective date of this act.</p>	<p><b>Not Implemented</b></p>	<p>A comparison of aggregate approval rates with recommended approval rates by guidelines level is made available to the Parole Board Members and Parole Commissioners on a monthly basis. However, Board Members and Parole Commissioners vote cases on a daily basis; therefore, at the time of the parole panel member's vote, the current monthly aggregate approval rates by guidelines level are not available to them. This means that the panel member voting a case is unaware of the aggregate approval rate to determine whether or not they are voting within the range of the recommended approval rate.</p> <p>A parole panel member provides approval and denial reasons for all votes through the Notice of Parole Panel Action (NPPA). The Board revised the NPPA on March 20, 2008 to include language that states that the NPPA is a detailed, written statement of the parole panel's decision. The approval and denial reasons used in the NPPA were not changed. The Board coordinated implementation of the revised NPPA with TDCJ Parole Division. In addition, the Board prepared a standard letter to send to offenders and attorneys who request the detailed written statement.</p>

### **Implementation of 2007 Sunset Legislation**

<b>Texas Board of Pardons and Paroles – S.B. 909 (continued)</b>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
3. Requires the Parole Board to annually report and explain to the Legislature its efforts to meet the parole guidelines. Requires the Parole Board to submit its first annual report no later than December 1, 2008.	<b>In Progress</b>	The Parole Board prepared a draft Parole Guidelines Annual Report and submitted it to the Parole Board members for their review and consideration on October 15, 2008. A final copy of the report is scheduled to be approved by the Board at its January 2009 meeting. The Board will send the report to the Legislative Oversight Committee when it is approved.

<b>Texas Real Estate Commission – S.B. 914</b>		
Senate Bill 914, as adopted by the 80th Legislature, continued the Texas Real Estate Commission for 12 years. The legislation included a total of 31 changes requiring action. The following chart summarizes the provisions that are still in progress and provides the status of each.		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
1. Requires the Commission to implement five management actions adopted by the Sunset Advisory Commission.	<b>In Progress</b>	The Commission has fully implemented four management actions and has one directive in progress. This directive requires the Commission to improve its collection of complaint statistics and develop a method for analyzing complaints. The Commission is developing data reports needed for analysis of complaint trends and anticipates completing these efforts by February 2009.
2. Requires the Commission to publish exam pass rates for real estate schools and provide this information to the public.	<b>In Progress</b>	The Commission is collecting exam pass rate data and will publish this information when the requirement becomes effective on September 1, 2009.

## **Implementation of 2007 Sunset Legislation**

<b>State Office of Risk Management – S.B. 908</b>		
<p>Senate Bill 908, as adopted by the 80th Legislature, continued the State Office of Risk Management for 12 years. The legislation included a total of 14 changes requiring action. The following chart summarizes one provision that is still in progress and one provision that has not been implemented and provides the status of each.</p>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
<p>1. Requires SORM to provide state agencies with return-to-work coordinated services to facilitate injured employees' return to work. Coordinated services include, a time frame in which the employer must initiate case management for the injured worker, and adoption of rules that guide agencies' interactions with the injured employees.</p>	<b>In Progress</b>	<p>The agency did not receive funding to hire staff to provide the coordinated return to work (RTW) services, and is unable to shift resources to this function. SORM is now evaluating approaches to emphasize RTW and to track RTW outcomes. SORM has also requested funding for personnel to provide these services in its fiscal year 2010 – 2011 Legislative Appropriations Request.</p>
<p>2. Requires SORM to adopt rules to guide the collection and evaluation of lost time and return to work information. Directs agencies to report return-to-work information to SORM in a standardized format, and SORM shall identify agencies in need of training or case management services related to return-to-work services. Also, requires SORM to provide an exception report on return-to-work by agency to the Legislature.</p>	<b>Not Implemented</b>	<p>As the agency is attempting to redesign its RTW to function without additional personnel, SORM has not adopted the required rules or initiated collection of RTW data.</p>

<b>Structural Pest Control Regulation – H.B. 2458 (Texas Department of Agriculture)</b>		
<p>House Bill 2458, as adopted by the 80th Legislature, abolished the Structural Pest Control Board and transferred its functions to the Texas Department of Agriculture (TDA). The legislation included a total of 16 changes requiring action. The following chart summarizes five provisions that are still in progress and provides the status of each.</p>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
<p>1. Requires TDA to more clearly define pesticide categories and specify the requirements that pertain to each category in the Integrated Pest Management (IPM) Program for School Districts. Requires the Department to adopt rules relating to IPM requirements by September 1, 2008.</p>	<b>In Progress</b>	<p>TDA proposed rules to implement this provision in July 2008. Based on the comments the agency received on those proposed rules, TDA decided to seek additional stakeholder input. The agency will bring a modified set of IPM rules to the Structural Pest Control Advisory Committee in January and will subject them to public comment in the Texas Register in subsequent months.</p>

### Implementation of 2007 Sunset Legislation

<b>Structural Pest Control Regulation – H.B. 2458 (continued)</b> <i>(Texas Department of Agriculture)</i>		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
2. Requires all school districts to provide contact information for their IPM Coordinators to the Department within 90 days of appointing a new Coordinator. Requires each school district to provide IPM Coordinator contact information by September 1, 2008.	<b>In Progress</b>	TDA proposed rules to implement this provision in July 2008. Based on the comments the agency received on those proposed rules, TDA decided to seek additional stakeholder input. The agency will bring a modified set of IPM rules to the Structural Pest Control Advisory Committee in January and will subject them to public comment in the Texas Register in subsequent months.
3. Requires all IPM Coordinators to complete six hours of continuing education every three years.	<b>In Progress</b>	TDA proposed rules to implement this provision in July 2008. Based on the comments the agency received on those proposed rules, TDA decided to seek additional stakeholder input. The agency will bring a modified set of IPM rules to the Structural Pest Control Advisory Committee in January and will subject them to public comment in the Texas Register in subsequent months.

<b>Veterans' Land Board – H.B. 3140</b>		
House Bill 3140, as adopted by the 80th Legislature, included a total of 12 changes requiring action by the Veterans' Land Board (VLB). The following chart summarizes the two provisions that are still in progress and provides the status of each.		
<b>Bill Provisions</b>	<b>Implementation</b>	
	<b>Status</b>	<b>Comments</b>
1. Adds standard Sunset language requiring the board to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution, but modifies standard language to change "must" to "shall" relating to requiring the board to conform its alternative dispute resolution procedures to model guidelines used by the State Office of Administrative Hearings.	<b>In Progress</b>	The General Land Office (GLO), which administratively supports VLB, is currently drafting an alternative dispute resolution process that will be used by VLB and all divisions within GLO. The VLB and GLO will publish the proposed rules in the Texas Register on March 1, 2009.
2. Requires the Texas Veterans Commission (TVC) and VLB to cooperatively create a comprehensive brochure that provides information about all available veterans' benefits and services. Requires TVC and VLB to cooperate in integrating web services to make information about veterans benefits easily accessible to all veterans.	<b>In Progress</b>	The agencies have developed the comprehensive brochure, which is being distributed throughout the state. The agency expects to roll out the integrated web services in January 2009.



**State Auditor's Office:  
State Agencies' Implementation  
of Sunset Advisory Commission  
Management Actions**





John Keel, CPA  
State Auditor

A Review of

## State Agencies' Implementation of Sunset Advisory Commission Management Actions

August 7, 2008

Members of the Legislative Audit Committee:

The State Auditor's Office has reviewed the status of 11 state agencies' implementation of 28 non-statutory recommendations (management actions) included in the *Sunset Advisory Commission Report to the 80th Legislature*. Nineteen of the 28 recommendations were reported as having been fully or substantially implemented.

The following five agencies reported that they had fully implemented all management actions:

- Commission on the Arts.
- Comptroller of Public Accounts - Prepaid Higher Education Tuition Board.
- Historical Commission.
- Teacher Retirement System.
- Library and Archives Commission.

The following six agencies reported that they had fully implemented or were in the process of implementing all management actions:

- Animal Health Commission.
- Criminal justice agencies (Department of Criminal Justice, Correctional Managed Health Care Committee, and Board of Pardons and Paroles).
- Real Estate Commission.
- Department of Agriculture – Structural Pest Control Board.
- Veterans Commission.
- Board of Nursing.

The table in the attachment to this letter summarizes the implementation status of the management actions at the 11 agencies reviewed.

### Objective, Scope, and Methodology

Texas Government Code, Section 325.012 (b), provides for the State Auditor's Office's examination of the non-statutory management actions that the Sunset Advisory Commission (Commission) recommends.

The objective of this review was to determine the implementation status of non-statutory recommendations (management actions) included in the Commission's report to the 80th Legislature.

The scope included 11 agencies to which the Commission directed management actions in its report to the 80th Legislature.

This review relied on self-reported information provided by the agencies. The information in this report was not subjected to all the tests and confirmations that would be performed in an audit.

The following members of the State Auditor's staff performed the review:

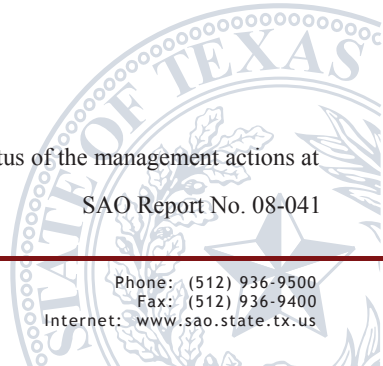
- Lauren Godfrey, CGAP (Project Manager).
- J. Scott Killingworth CIA, CGAP, CGFM (Quality Control Reviewer).
- Babette Laibovitz, MPA (Audit Manager).

SAO Report No. 08-041

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Members of the Legislative Audit Committee  
August 7, 2008  
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We appreciate the agencies' cooperation during this review. If you have any questions, please contact Babette Laibovitz, Audit Manager, or me at (512) 936-9500.

Sincerely,

John Keel, CPA  
State Auditor

Attachment

cc: Mr. Joey Longley, Director, Sunset Advisory Commission  
Boards, commissions, and executive management of the following agencies:  
Animal Health Commission  
Commission on the Arts  
Criminal Justice Agencies (Department of Criminal Justice, Correctional Managed Health Care  
Committee, and Board of Pardons and Paroles)  
Comptroller of Public Accounts – Prepaid Higher Education Tuition Board  
Historical Commission  
Library and Archives Commission  
Board of Nursing  
Real Estate Commission  
Department of Agriculture – Structural Pest Control Board  
Teacher Retirement System  
Veterans Commission



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# Attachment

## Agencies' Implementation of Sunset Advisory Commission Management Actions

Table 1 presents information on agencies' implementation of non-statutory recommendations (management actions) in the *Sunset Advisory Commission Report to the 80th Legislature*. The definitions of each implementation status are as follows:

- **Fully Implemented:** Successful development and use of a process, system, or policy to implement a prior recommendation.
- **Substantially Implemented:** Successful development but inconsistent use of a process, system, or policy to implement a prior recommendation.
- **Incomplete or Ongoing:** Ongoing development of a process, system, or policy to address a prior recommendation.
- **Not Implemented:** Lack of a formal process, system, or policy to address a prior recommendation.

Table 1

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Agency Comments for Management Actions that Are Incomplete, Ongoing, or Not Implemented
Real Estate Commission		
Direct the Real Estate Commission (Commission) to improve on its collection of complaint and violation statistics and to develop a method for complaint trend analysis.	Incomplete/ Ongoing	<p>The Commission agrees with the need to keep more detailed statistics regarding complaints to enable agency staff and others to analyze and respond to trends.</p> <p>At present, the Commission's licensing and complaint database captures, among other data, the dates on which enforcement cases are opened and closed, the types of complaints that are opened for investigation, and a single, broad category of cases that are determined to be non-jurisdictional. However, the system cannot currently generate the reports identified in this recommendation. The Technology Services Division has undertaken a programming project to create reports that can be automatically generated at regular intervals to reflect enforcement case resolution time frames by case type; numbers, types, and ages of open complaints at any given time; and specific types of non-jurisdictional complaints. Once these reports are available, it will be possible to begin assembling monthly, quarterly, and annual trend data for further analysis. (Due to systems limitations, these reports will be available from the point of implementation forward; it will not be possible to generate them based on previous time periods.) This process (development of the system enhancements) has been delayed by the fact that the Technology Services staff has been stretched to its limits to address new statutory changes, such as fingerprinting, while keeping a core system that was developed in the 1980s and is now operating well beyond its functional life expectancy.</p>

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Agency Comments for Management Actions that Are Incomplete, Ongoing, or Not Implemented
The Commission, Appraiser's Board, Department of Savings and Mortgage Lending, and Department of Insurance should coordinate their enforcement efforts.	Incomplete/ Ongoing	<p>The Commission agrees that agencies regulating related industries should coordinate enforcement efforts and should memorialize the inter-agency cooperation that already exists. This is already occurring on an informal basis, but a formal document among the agencies has not been ratified.</p> <p>Pursuant to House Bill 716 (80th Legislature), the Commission participates in the Mortgage Fraud Task Force, which provides for widespread coordination of enforcement efforts regarding mortgage fraud, encompassing not only the state agencies identified in this recommendation, but also the Office of the Attorney General and local law enforcement agencies.</p> <p>The Commission has also drafted and circulated for consideration a memorandum of understanding (MoU) regarding the referral of non-jurisdictional complaints among the agencies identified in this recommendation. Administrator Tim Irvine (who is also the Appraiser Licensing and Certification Board Commissioner) has distributed the MoU to the Insurance Commissioner and the Savings and Mortgage Lending Commissioner, as well as their general counsels. The other agencies have expressed agreement, and it is anticipated that the MoU will be executed shortly.</p>
<b>Department of Agriculture - Structural Pest Control Board</b>		
The Department of Agriculture should increase coordination with other agencies and use other resources to disseminate information and seek out unlicensed noncommercial activity.	Incomplete/ Ongoing	<p>Effective September 1, 2007, House Bill 2458 (80th Legislature) abolished the Structural Pest Control Board (Board) and transferred its responsibility of licensing and regulation to the Texas Department of Agriculture (TDA). TDA completed the following activities since September 2007, to transition the functions of the Board:</p> <ul style="list-style-type: none"> <li>▪ Evaluated and revised all job descriptions for the former Board's full-time equivalent (FTE) positions.</li> <li>▪ Posted, interviewed for, and hired all structural pest control FTE positions.</li> <li>▪ Closed and moved the former Board's office to the TDA location.</li> <li>▪ Conducted new employee orientation.</li> <li>▪ Transferred the existing regulations for structural pest control to TDA.</li> <li>▪ Adopted new regulations for the newly created Structural Pest Control Advisory Committee (Advisory Committee) in October 2007.</li> <li>▪ Conducted structural pest control field inspector training in October 2007 implementing a shift in focus from a strict civil and criminal enforcement approach to an approach of employing a wider range of enforcement options and incorporating a compliance assistance concept into routine inspections.</li> <li>▪ Provided inspectors new computers, printers, and cameras in October 2007.</li> <li>▪ Solicited applications for appointment to the Advisory Committee in November 2007 and completed appointments in January 2008.</li> <li>▪ Ordered and issued state vehicles to structural pesticide inspectors in January 2008.</li> <li>▪ Conducted an initial Advisory Committee meeting in March 2008 and a second meeting in May 2008.</li> <li>▪ Began cross training and incorporated structural pest control inspectors into the statewide pesticide inspector training in April 2008 to begin making the inspections similar.</li> <li>▪ Proposed changes to the structural pest control regulations in July 2008 for public comment and possible adoption by September 2008.</li> </ul> <p>TDA still uses the Board's processes, business practices, and licensing system for continuity of services. However, TDA's Pesticide Division is currently working with TDA's Information Management Division to gather the requirements necessary to incorporate the structural pest control</p>

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
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		<p>component into its information management system platform used to conduct electronic inspections. Priority has been given to activities needed to transition the program.</p> <p>The Structural Pest Control Service has modified its inspection process to incorporate a compliance assistance component to ensure that inspected noncommercial entities currently being inspected understand the pesticide regulatory requirements pertaining to structural pest control. A primary focus of TDA in management of regulatory programs is to increasingly utilize the public to draw feedback on program management and to seek out regulatory concerns, such as unlicensed commercial activity. To expand outreach efforts, TDA plans to use its Pesticide Division's established working relationship with the Texas AgriLife Extension Service and the Texas Department of State Health Services to develop new and expand existing outreach efforts focused on noncommercial activity.</p>
The Department of Agriculture should track and analyze enforcement data by license type to support its development of a risk-based approach to inspections.	Incomplete/ Ongoing	<p>Effective September 1, 2007, House Bill 2458 (80th Legislature), abolished the Structural Pest Control Board (Board) and transferred its responsibility of licensing and regulation to the Texas Department of Agriculture (TDA). See response to the recommendation above for an explanation of activities since September 2007 that were priorities to accomplish the transitioning of the Board functions in the last 10 months.</p> <p>TDA still uses the Board's processes, business practices, and licensing system for continuity of services. TDA has taken preliminary actions toward implementation. However, the limited amount of enforcement data currently captured by the Board's system limits TDA's ability to implement this recommendation. Currently, extensive resources would be needed to manually gather additional data. TDA began working in April 2008 to gather the requirements necessary to incorporate the structural pest control component into its information management system platform. TDA will have the capability to capture comprehensive enforcement data once the system upgrades are complete. Then reports will be available to evaluate enforcement data to identify compliance trends and modify inspection needs based on the noncompliance risks identified.</p>
The Department of Agriculture should conduct criminal background checks for all license applications and renewals.	Fully Implemented	
Board of Nursing (Formerly the Board of Nurse Examiners)		
The Board of Nursing (Board) should review and revise its education rules, policies, and procedures to ensure they do not exceed the Board's responsibility to certify minimum competence to enter the profession of nursing.	Incomplete/ Ongoing	<p>The Board through consultation with the Advisory Committee on Education (composed of constituents representing nursing education and practice and professional organizations) has reviewed all education rules and processes relating to vocational and professional nursing education. The mission of the Board was a major focus during the review to ensure that the Board's responsibility was met but not exceeded. Rule revisions have already been approved and implemented. Some rule revisions relate to other Sunset recommendations, which required rule revisions for activation. Additional rule revisions will be presented to the Board at the July 17-18, 2008, meeting. Following the Board's approval, staff will begin revisions of associated Board policies and education guidelines with an anticipated completion date in Spring 2009. The Advanced Practice Nursing Advisory Committee plans to begin a review of Rule 219 related to Advanced Practice Nursing Education in Spring 2009.</p> <p>The following items have been <b>fully implemented</b>:</p> <ul style="list-style-type: none"> <li>▪ New rules empowering dean/directors to grant faculty waivers.</li> <li>▪ New rules delineating the flexibility of clinical faculty ratios.</li> <li>▪ New rules allowing qualified RNs to function as clinical teaching assistants.</li> </ul>

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Agency Comments for Management Actions that Are Incomplete, Ongoing, or Not Implemented
		<ul style="list-style-type: none"> <li>▪ New rules eliminating faculty-to-student ratios in all clinical learning experiences except those involving direct patient care.</li> <li>▪ Adopted a process whereby a career school/college may submit a proposal for a new professional nursing educational program while awaiting accreditation.</li> <li>▪ Adopted a process to allow approval of nursing programs outside Texas' jurisdiction to conduct clinical learning experiences in Texas.</li> </ul> <p>The following items are <b>incomplete/ongoing</b>:</p> <ul style="list-style-type: none"> <li>▪ Collaborated with Texas Workforce Commission and Texas Higher Education Coordinating Board to reduce duplicative processes in the approval of new nursing educational programs, streamlining the process. Will be presented to the Board July 17-18, 2008.</li> <li>▪ Collaborated with nursing accreditation agencies to compare accreditation standards and Board approval criteria in order to select an accreditation agency(ies) with acceptable standards. Will be presented to the Board July 17-18, 2008.</li> <li>▪ Developed a process allowing for Board approval of hospital-based diploma programs. Will be presented to the Board July 17-18, 2008.</li> </ul>
The Board should develop a process to allow for Board approval of hospital-based diploma programs.	Incomplete/ Ongoing	A process to allow for Board approval of hospital-based diploma programs has been developed and will be presented to the July 17-18, 2008, Board meeting for approval. Implementation will follow.
The Board should approve nursing education programs for a period longer than one year.	Incomplete/ Ongoing	<p><b>Substantially Implemented:</b> The Advisory Committee on Education approved moving program approval from one year to two years at the August 28, 2007, meeting. Board approved at the October 18-10, 2007, meeting.</p> <p>The Board in collaboration with the Texas Center for Nursing Workforce Studies have redesigned two data tools to gather ongoing data important to both agencies. The first is an annual data form entitled the "Nursing Educational Program Information Survey (NEPIS)" and the second a biennial compliance audit, the "Compliance Audit for Nursing Educational Programs (CANEP)." The NEPIS gathers data related to student, faculty, and program factors affecting admission and graduation rates. The CANEP validates program compliance with Texas rules and regulations. Required information will be limited for programs accredited by national nursing accreditation organizations.</p> <p><b>Incomplete/Ongoing:</b> In regards to requirements for programs to develop a self-study report following a low NCLEX examination pass rate, when the pass rate seems to be related to a small number of students taking the examination, out of sequence test-takers, or other mitigating factors, the program is requested to provide a letter of explanation rather than a self-study report. Board staff conducted a study in 2007 of effective corrective measures implemented by programs who had experienced a low pass rate on the NCLEX examination. Self study reports for two years were reviewed and corrective measures were classified and analyzed. It was found that 95 percent of programs who wrote a self-study were able to bring the pass rate up above 80 percent in the following examination year. Programs frequently attest to the value of critically evaluating their programs for factors which may have contributed to the low pass rate.</p> <p>Board staff will continue to consider and evaluate the self-study process in order to make it a valuable activity rather than a burden on programs.</p>
The Board should establish a process to ensure that it consistently evaluates complaints involving impaired nurses suspected of also violating standards of practice.	Fully Implemented	

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The Board should post information about disciplinary actions on its Web site.	Fully Implemented	
<b>Animal Health Commission</b>		
The Animal Health Commission (Commission) should make its compliance database available to its employees statewide to facilitate better sharing of information and consistency in staff's approach to compliance.	Fully Implemented	
The Commission should develop and implement a succession plan to prepare for impending retirements and workforce changes.	Incomplete/ Ongoing	<p>The Commission began review of possible strategies for implementing a Commission-wide succession plan in the summer of 2006. Human resources and administration staff attended training presented by the State Auditor's Office on succession planning. Implementation and brainstorming sessions were held with the Deputy Director of Administration and Finance and human resource staff to determine the correct course of action.</p> <p>The Commission's performance appraisal form was updated in September 2006. The form contains a section dedicated to career planning. It is being used to determine employees' career goals. The document lines out the steps required to move the employee toward his/her career objectives, including additional training, and coaching and mentoring needs. Each year during the employee's performance appraisal these objectives are reviewed to determine if progress has been made toward stated career goals. The performance appraisal document has therefore become an effective succession planning tool for the Commission.</p> <p>The Commission has also expanded training opportunities for staff through the Governor's Center for Management Development and various outside sources for technical/specialized training. This training allows employees to better serve in current job capacities, but it also provides tools needed to advance into areas of greater responsibility.</p> <p>During the summer of 2007, Commission staff began succession planning for line staff by updating career ladder modules. These modules are designed to develop requisite knowledge, skills, and abilities of staff, including management training at the top tier of the career ladders, to ready staff for the possibility of promotion into supervisory/management positions.</p> <p>The career ladders have not been fully implemented at this time because a component of advancement is salary enhancement when certain milestones are reached throughout an employee's advancement. The Commission is evaluating the cost of full implementation to determine if sufficient funds are available or if additional funding must be requested through the Legislative Appropriation Request to fulfill this important initiative.</p> <p>During the development of 2009-2013 workforce plan, the executive staff and division/department heads were consulted about critical knowledge shortages, now and in the future, so that the Commission can continue to develop strategies for recruiting, hiring, retaining, and/or developing the needed talent for continuance of Commission success. This information will be used to determine where training expenditures should be concentrated to ensure current and future staff has the knowledge, skills, and abilities needed to perform seamless service to the citizens of the state of Texas, now and in years to come.</p>
<b>Criminal Justice Agencies (Department of Criminal Justice, Board of Pardons and Paroles, and Correctional Managed Health Care Committee)</b>		
The Department of Criminal Justice (TDCJ) should conduct routine program evaluations of all rehabilitation programs designed to reduce	Incomplete/ Ongoing	TDCJ created a position within the agency's Executive Services Department for the purpose of conducting programs evaluations designed to determine the impact of rehabilitation programs on reducing recidivism as well as conducting other statistical analysis. Rehabilitation tier programs included in the report to the 81st Legislature will include the Substance Abuse Felony



Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
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reincarcerations and revocations, and report the findings to the Legislature.		Punishment, In-Prison Therapeutic Community, Pre-Release Therapeutic Community, Pre-Release Substance Abuse, Sex Offender Treatment, Sex Offender Education, and Innerchange Program. The methodology used for measuring recidivism will be consistent with previous evaluations of these programs in order to facilitate comparisons of program effectiveness over time. Targeted date for submission of first biennial report to Legislature is December 31, 2008.
TDCJ's Health Services Division and the university providers should provide more useful information in response to offender grievances.	Fully Implemented	
<b>Teacher Retirement System</b>		
The Teacher Retirement System should improve the convenience of counseling services for its members.	Fully Implemented	
<b>Historical Commission</b>		
Direct the Texas Historical Commission (THC) to establish a clear and open process to prioritize projects for financial assistance from Friends of the Texas Historical Commission, Inc.	Fully Implemented	
Direct the agency to help build the capacity of county historical commissions to more effectively research and evaluate resources appropriate for official historical markers.	Fully Implemented	
Direct THC staff to evaluate and prioritize its many programs and initiatives, linking them back to the agency's most important goals.	Fully Implemented	
<b>Veterans Commission</b>		
The Veterans Commission (Commission) should explore ways to better integrate its new programs into the agency's overall mission.	Fully Implemented	
The Commission should adopt rules to guide its programs.	Fully Implemented	
The Commission should reduce the number of training conferences it conducts.	Fully Implemented	
The Commission should develop and implement a succession plan to prepare for impending retirements and workforce changes.	Fully Implemented	
The Commission should formally document its duties in writing by	Substantially Implemented	

Status of Agencies' Implementation of Sunset Advisory Commission Management Actions		
Management Action	Implementation Status	Agency Comments for Management Actions that Are Incomplete, Ongoing, or Not Implemented
updating its manuals and making them available to all employees electronically.		
The Commission should evaluate its promotion and evaluation policies and revise them to include measures of job performance.	Fully Implemented	
<b>Library and Archives Commission</b>		
The Library and Archives Commission should use its Library Systems Act Advisory Board in the development of a new system formula.	Fully Implemented	
<b>Comptroller of Public Accounts - Prepaid Higher Education Tuition Board</b>		
The Prepaid Higher Education Tuition Board (Board) should consider restructuring its next Request for Proposals for the Savings Plan manager to encourage a wider variety of respondents.	Fully Implemented	
The Board should regularly evaluate the impact of its advertising campaign to ensure that it is cost-effectively generating new enrollment.	Fully Implemented	
<b>Commission on the Arts</b>		
The Commission on the Arts should evaluate the agency's programs and initiatives to ensure compliance with the legislative direction to focus on arts promotion and grants.	Fully Implemented	

Summary for All Agencies Reviewed					
Number of Management Actions	Fully Implemented	Substantially Implemented	Incomplete/Ongoing	Not Implemented	Total
	18	1	9	0	28

