

By: Truitt, Cook of Navarro, McClendon,
Kolkhorst, Flynn

H.B. No. 3249

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of, and the entities reviewed by,
the Sunset Advisory Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. CHANGES TO TEXAS SUNSET ACT

SECTION 1.01. Sections 325.003(a), (b), (d), (e), and (j),
Government Code, are amended to read as follows:

(a) The Sunset Advisory Commission consists of five members
of the senate and one public member appointed by the lieutenant
governor and five members of the house of representatives and one
public member appointed by the speaker of the house. The lieutenant
governor and the speaker of the house ~~[Each appointing authority]~~
may serve ~~[designate himself]~~ as one of the legislative appointees.

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

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

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

(3) required to register as a lobbyist under Chapter

1 305 because of the person's activities for compensation on behalf
2 of a profession or entity related to the operation of an agency
3 under review.

4 (d) Legislative members serve four-year terms, with terms
5 staggered so that the terms of as near to one-half of the
6 legislative members appointed by the lieutenant governor as
7 possible and the terms of as near to one-half of the legislative
8 members appointed by the speaker as possible expire September 1 of
9 each odd-numbered year. If the lieutenant governor or the speaker
10 serves on the commission, service [~~he~~] continues [~~to serve~~] until
11 resignation from the commission or until the individual [~~he~~] ceases
12 to hold the office. Public members serve two-year terms expiring
13 September 1 of each odd-numbered year.

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

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

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

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

26 (j) Seven members of the commission constitute a quorum. A
27 final action or recommendation may not be made unless approved by a

1 record vote of a majority of the commission's full membership. All
2 other actions by the commission shall be decided by a majority of
3 the members present and voting.

4 SECTION 1.02. Section 325.007, Government Code, is amended
5 to read as follows:

6 Sec. 325.007. AGENCY REPORT TO COMMISSION. Before
7 September 1 [~~October 30~~] of the odd-numbered year before the year in
8 which a state agency subject to this chapter is abolished, the
9 agency shall report to the commission:

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

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

14 SECTION 1.03. Section 325.008(a), Government Code, is
15 amended to read as follows:

16 (a) Before January [~~September~~] 1 of [~~the even-numbered year~~
17 ~~before~~] the year in which a state agency subject to this chapter and
18 its advisory committees are abolished, the commission shall:

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

21 (2) consult the Legislative Budget Board, the
22 Governor's Budget, Policy, and Planning Division [~~Office~~], the
23 State Auditor, and the comptroller of public accounts, or their
24 successors, on the application to the agency of the criteria
25 provided in Section 325.011;

26 (3) conduct a review [~~performance evaluation~~] of the
27 agency based on the criteria provided in Section 325.011 and

1 prepare a written report; and

2 (4) review the implementation of commission
3 recommendations contained in the reports presented to the
4 legislature during the preceding legislative session and the
5 resulting legislation.

6 SECTION 1.04. Section 325.009, Government Code, is amended
7 to read as follows:

8 Sec. 325.009. PUBLIC HEARINGS AND DECISIONS. (a) Before
9 January [~~Between September 1 and December~~] 1 of [~~the calendar year~~
10 ~~before~~] the year a state agency subject to this chapter and its
11 advisory committees are abolished, the commission shall conduct
12 public hearings concerning but not limited to the application to
13 the agency of the criteria provided in Section 325.011.

14 (b) The commission may hold the public hearings after
15 [~~before September 1 if~~] the review [~~evaluation~~] of the agency
16 required by Section 325.008(a)(3) is complete and available to the
17 public.

18 (c) The commission shall complete its decision on an agency
19 before February 1 of the year of the agency's abolition.

20 SECTION 1.05. Section 325.010, Government Code, is amended
21 to read as follows:

22 Sec. 325.010. COMMISSION REPORT. (a) At each regular
23 legislative session, the commission shall present to the
24 legislature and the governor a report on the agencies and advisory
25 committees reviewed [~~scheduled to be abolished~~].

26 (b) In the report the commission shall include:

27 (1) its [~~specific~~] findings regarding [~~each of~~] the

1 criteria prescribed by Section 325.011;

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

4 (3) other information the commission considers
5 necessary for a complete review [~~evaluation~~] of the agency.

6 SECTION 1.06. Section 325.011, Government Code, is amended
7 to read as follows:

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

13 (1) the efficiency and effectiveness with which the
14 agency, its policy body, or the advisory committee operates;

15 (2)(A) an identification of the mission, goals, and
16 objectives intended for the agency or advisory committee and of the
17 problem or need that the agency or advisory committee was intended
18 to address; and

19 (B) [~~7~~] the extent to which the mission, goals,
20 and objectives have been achieved and the problem or need has been
21 addressed;

22 (3)(A) an identification of [~~7~~ and] any activities of
23 the agency in addition to those granted by statute and of the
24 authority for those [~~these~~] activities; and

25 (B) the extent to which those activities are
26 needed;

27 (4) [~~3~~] an assessment of authority of the agency

1 relating to fees, inspections, enforcement, and penalties;

2 (5) whether less restrictive or alternative methods of
3 performing any function [~~regulation~~] that the agency performs
4 [~~that~~] could adequately protect or provide service to the public;

5 (6) [~~(4) the extent to which the advisory committee is~~
6 ~~needed and is used;~~

7 [~~(5)~~] the extent to which the jurisdiction of the
8 agency and the programs administered by the agency overlap or
9 duplicate those of other agencies, the extent to which the agency
10 coordinates with those agencies, and the extent to which the
11 programs administered by the agency can be consolidated with the
12 programs of other state agencies;

13 (7) [~~(6) whether the agency has recommended to the~~
14 ~~legislature statutory changes calculated to be of benefit to the~~
15 ~~public rather than to an occupation, business, or institution that~~
16 ~~the agency regulates;~~

17 [~~(7)~~] the promptness and effectiveness with which the
18 agency addresses [~~disposes of~~] complaints concerning entities or
19 other persons affected by the agency, including an assessment of
20 the agency's administrative hearings process;

21 (8) an assessment of the agency's rulemaking process
22 and the extent to which the agency has encouraged participation by
23 the public in making its rules and decisions [~~as opposed to~~
24 ~~participation solely by those it regulates~~] and the extent to which
25 the public participation has resulted in rules that benefit the
26 public [~~compatible with the objectives of the agency~~];

27 (9) the extent to which the agency has complied with

1 ~~[applicable requirements of]:~~

2 (A) federal and state laws and applicable rules
3 ~~[an agency of the United States or of this state]~~ regarding equality
4 of employment opportunity and the rights and privacy of
5 individuals; and

6 (B) state law and applicable rules of any state
7 agency regarding purchasing guidelines ~~[goals]~~ and programs for
8 historically underutilized businesses;

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

12 ~~[(11)]~~ the extent to which the agency issues and
13 enforces rules relating to potential conflicts of interest of its
14 employees;

15 (11) ~~[(12)]~~ the extent to which the agency complies
16 with Chapters 551 and 552 and follows records management practices
17 that enable the agency to respond efficiently to requests for
18 public information; and

19 (12) ~~[(13)]~~ the effect of federal intervention or loss
20 of federal funds if the agency is abolished.

21 SECTION 1.07. Section 325.012, Government Code, is amended
22 to read as follows:

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

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

1 functions of the agency and its advisory committees;

2 (2) make recommendations on the consolidation,
3 transfer, or reorganization of programs within state agencies not
4 under review when the programs duplicate functions performed in
5 agencies under review; and

6 (3) make recommendations to improve the operations of
7 the agency, its policy body, and its advisory committees, including
8 management recommendations that do not require a change in the
9 agency's enabling statute.

10 (b) The commission shall include the estimated fiscal
11 impact of its recommendations and may recommend appropriation
12 levels for certain programs to improve the operations of the state
13 agency.

14 (c) The commission shall have [~~recommend appropriation~~
15 ~~levels for each state agency and advisory committee for which~~
16 ~~abolition or reorganization is recommended under Subdivision (1) or~~
17 ~~(2); and~~

18 [~~(4) include~~] drafts of legislation prepared
19 [~~necessary~~] to carry out the commission's recommendations under
20 this section [~~Subdivisions (1) and (2)~~].

21 (d) After the legislature acts on the report [~~(b) On the~~
22 ~~date the commission presents its report to the legislature~~] under
23 Section 325.010, the commission shall present to the state auditor
24 the commission's recommendations that do not require a statutory
25 change to be put into effect. Based on a risk assessment and
26 subject to the legislative audit committee's approval of including
27 the examination in the audit plan under Section 321.013, the state

1 auditor may examine the recommendations and include as part of the
2 next approved audit of the agency a report on whether the agency has
3 implemented the recommendations and, if so, in what manner.

4 SECTION 1.08. Section 325.0125, Government Code, is amended
5 to read as follows:

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

11 (b) The commission may only exempt agencies that have been
12 inactive for a period of two years preceding the date the agency is
13 scheduled for abolition or that have been rendered inactive by an
14 action of the legislature.

15 (c) The commission's action in exempting agencies under
16 this section must be done by an affirmative record vote and must be
17 decided by a majority vote as provided by Section 325.003(j) [~~of all~~
18 ~~members of the commission~~].

19 SECTION 1.09. The heading to Section 325.016, Government
20 Code, is amended to read as follows:

21 Sec. 325.016. SUNSET LEGISLATION [~~LEGISLATIVE~~
22 ~~CONSIDERATION~~].

23 SECTION 1.10. Section 325.016, Government Code, is amended
24 by amending Subsections (a) and (c) and adding Subsection (d) to
25 read as follows:

26 (a) Except as provided by Subsections [~~Subsection~~] (b) and
27 (d), the legislature may not consider in one bill the continuation,

1 transfer, or modification of more than one state agency and the
2 agency's functions and advisory committees.

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

6 (d) The legislature may consider the continuation of more
7 than one agency in a single bill for the purpose of adjusting the
8 commission's review schedule.

9 SECTION 1.11. Section 325.017(e), Government Code, is
10 amended to read as follows:

11 (e) Unless the governor designates an appropriate state
12 agency as prescribed by Subsection (f), property and records in the
13 custody of an abolished state agency or advisory committee on
14 September 1 of the even-numbered year after abolishment shall be
15 transferred to the Texas Building and Procurement [~~State Purchasing~~
16 ~~and General Services~~] Commission. If the governor designates an
17 appropriate state agency, the property and records shall be
18 transferred to the designated state agency.

19 SECTION 1.12. Section 325.020, Government Code, is amended
20 to read as follows:

21 Sec. 325.020. RELOCATION OF EMPLOYEES. If an employee is
22 displaced because a state agency or its advisory committee is
23 abolished, reorganized, or continued, the state agency and the
24 Texas Workforce [~~Employment~~] Commission shall make a reasonable
25 effort to relocate the displaced employee.

26 SECTION 1.13. Section 325.022, Government Code, is amended
27 to read as follows:

1 Sec. 325.022. REVIEW OF PROPOSED LEGISLATION CREATING AN
2 ~~[REGULATORY]~~ AGENCY. (a) Each bill filed in a house of the
3 legislature that would create a new state agency ~~[having regulatory~~
4 ~~authority]~~ or a new advisory committee to a state agency ~~[having~~
5 ~~regulatory authority]~~ shall be reviewed by ~~[forwarded to]~~ the
6 commission.

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

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

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

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

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

18 (c) On request ~~[After reviewing the bill]~~, the commission
19 shall forward a written comment on the legislation to the author of
20 the bill and to the presiding officer of the committee to which the
21 bill is referred.

22 ARTICLE 2. ENTITY GIVEN 2011 SUNSET DATE

23 SECTION 2.01. TEXAS STATE AFFORDABLE HOUSING CORPORATION.

24 Section 2306.5521, Government Code, is amended to read as follows:

25 Sec. 2306.5521. SUNSET PROVISION. The Texas State
26 Affordable Housing Corporation is subject to Chapter 325 (Texas
27 Sunset Act). Unless continued in existence as provided by that

1 chapter, the corporation is abolished and this subchapter expires
2 September 1, 2011 [~~2009~~].

3 ARTICLE 3. ENTITY GIVEN 2013 SUNSET DATE

4 SECTION 3.01. TEXAS COUNCIL ON PURCHASING FROM PEOPLE WITH
5 DISABILITIES. Section 122.006, Human Resources Code, is amended to
6 read as follows:

7 Sec. 122.006. SUNSET PROVISION. The Texas Council on
8 Purchasing from People with Disabilities is subject to Chapter 325,
9 Government Code (Texas Sunset Act). Unless continued in existence
10 as provided by that chapter, the council is abolished and this
11 chapter expires September 1, 2013 [~~2015~~].

12 ARTICLE 4. ENTITY REMOVED FROM SPECIFIC SUNSET REVIEW

13 SECTION 4.01. REPEALER. Section 435.003, Government Code
14 (Texas Military Facilities Commission), is repealed.

15 ARTICLE 5. EFFECTIVE DATE

16 SECTION 5.01. EFFECTIVE DATE. This Act takes effect
17 immediately if it receives a vote of two-thirds of all the members
18 elected to each house, as provided by Section 39, Article III, Texas
19 Constitution. If this Act does not receive the vote necessary for
20 immediate effect, this Act takes effect September 1, 2007.