

## **BILL ANALYSIS**

Senate Research Center  
81S10030 MCK-F

S.B. 2  
By: Hegar, Hinojosa  
Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

State agencies undergo periodic review by the Sunset Advisory Commission (sunset commission). The sunset commission is guided by the Texas Sunset Act, which has certain provisions that need updating to reflect the current practices of the sunset commission, and to reflect the way the sunset process has evolved. The legislature frequently changes the review schedule for certain agencies to balance the workload of the sunset commission; to better align the reviews of agencies by grouping them based on subject matter; and in some cases, to serve as a safety net in the event an agency sunset bill is in danger of not passing.

S.B. 2 changes the review provisions of several state agencies in addition to providing the two-year safety net feature for five state agencies whose legislation failed to pass during the Regular Session of the 81st Legislature.

As proposed, S.B. 2 amends current law relating to the governmental entities subject to the sunset review process.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. ENTITIES GIVEN 2011 SUNSET DATE

SECTION 1.01. STATE SOIL AND WATER CONSERVATION BOARD. Amends Section 201.025, Agriculture Code, as follows:

Sec. 201.025. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, the State Soil and Water Conservation Board is abolished and this chapter expires September 1, 2011, rather than 2013.

SECTION 1.02. TEXAS FOREST SERVICE. Amends Subchapter B, Chapter 88, Education Code, by adding Section 88.1016, as follows:

Sec. 88.1016. SUNSET PROVISION. Provides that the Texas Forest Service is subject to Chapter 325, Government Code. Provides that unless continued in existence as provided by that chapter, the Texas Forest Service is abolished September 1, 2011.

SECTION 1.03. EQUINE RESEARCH ACCOUNT ADVISORY COMMITTEE. Amends Section 88.524(b), Education Code, to provide that unless continued in existence as provided by Chapter 325, Government Code, the Equine Research Account Advisory Committee is abolished and this subchapter expires September 1, 2011, rather than 2009.

SECTION 1.04. TEXAS STATE AFFORDABLE HOUSING CORPORATION. Amends Section 2306.5521, Government Code, as follows:

Sec. 2306.5521. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas State Affordable Housing

Corporation is abolished and this subchapter expires September 1, 2011, rather than 2009.

SECTION 1.05. ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL. Amends Section 367.003, Health and Safety Code, as follows:

Sec. 367.003. APPLICATION OF SUNSET ACT. (a) Provides that unless continued in existence as provided by Chapter 325, Government Code, the On-Site Wastewater Treatment Research Council is abolished and this chapter expires September 1, 2011, rather than 2013.

(b) Requires that uncommitted money in the on-site wastewater treatment research account be deposited to the credit of the general revenue fund if this chapter expires under Subsection (a).

SECTION 1.06. TEXAS DEPARTMENT OF INSURANCE. Amends Section 31.004(a), Insurance Code, to provide that unless continued in existence as provided by Chapter 325, Government Code, the Texas Department of Insurance is abolished September 1, 2011, rather than 2009.

SECTION 1.07. OFFICE OF PUBLIC INSURANCE COUNCIL. Amends Section 501.003, Insurance Code, as follows:

Sec. 501.003. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Office of Public Insurance Council is abolished September 1, 2011, rather than 2009.

SECTION 1.08. COASTAL COORDINATION COUNCIL. Amends Section 33.211, Natural Resources Code, as follows:

Sec. 33.211. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Coastal Coordination Council is abolished and this subchapter expires September 1, 2011, rather than 2013.

SECTION 1.09. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY. Amends Section 401.002, Occupations Code, as follows:

Sec. 401.002. APPLICATION OF SUNSET ACT. Provides that unless continued in existence as provided by Chapter 325, Government Code, the State Board of Examiners for Speech-Language Pathology and Audiology is abolished and this chapter expires September 1, 2011, rather than 2013.

SECTION 1.10. STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS. Amends Section 402.002, Occupations Code, as follows:

Sec. 402.002. APPLICATION OF SUNSET ACT. Provides that unless continued in existence as provided by Chapter 325, Government Code, the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is abolished and this chapter expires September 1, 2011, rather than 2013.

SECTION 1.11. TEXAS DEPARTMENT OF TRANSPORTATION. Amends Section 201.204, Transportation Code, as follows:

Sec. 201.204. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Department of Transportation is abolished September 1, 2011, rather than 2009.

SECTION 1.12. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Amends Section 5.014, Water Code, as follows:

Sec. 5.014. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Natural Resource Conservation Commission [now the Texas Commission on Environmental Quality] is abolished and this chapter expires September 1, 2011, rather than 2013.

SECTION 1.13. TEXAS WATER DEVELOPMENT BOARD. Amends Section 6.013, Water Code, as follows:

Sec. 6.013. SUNSET PROVISION. Provides that the Texas Water Development Board (TWDB) is subject to review under Chapter 325, Government Code, but is not abolished by that chapter. Requires TWDB to be reviewed during the period in which the state agencies abolished in 2011, rather than 2013, and every 12th year after 2011, rather than 2013, are reviewed.

SECTION 1.14. RAILROAD COMMISSION OF TEXAS. (a) Amends Article 6445a, Revised Statutes, as follows:

Art. 6445a. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Railroad Commission of Texas (railroad commission) is abolished September 1, 2011, rather than 2013.

(b) Amends Section 81.01001, Natural Resources Code, as added by S.B. No. 1540, Acts of the 81st Legislature, Regular Session, 2009, and as effective April 1, 2011, as follows:

Sec. 81.01001. SUNSET PROVISION. Provides that the railroad commission is subject to Chapter 325, Government Code. Provides that unless continued in existence as provided by that chapter, the railroad commission is abolished September 1, 2011, rather than 2013.

SECTION 1.15. TEXAS RACING COMMISSION. Amends Section 18.01(a), Texas Racing Act (Article 179e, V.T.C.S.), as follows:

(b) Provides that unless continued in existence as provided by Chapter 325, Government Code, and except as provided by Subsections (b) (relating to an association that has outstanding long-term liabilities) and (c) (relating to expiration of this Act), the Texas Racing Commission is abolished and this Act expires September 1, 2011, rather than 2009.

## ARTICLE 2. ENTITIES GIVEN 2013 SUNSET DATE

SECTION 2.01. TEXAS EDUCATION AGENCY. Amends Section 7.004, Education Code, as follows:

Sec. 7.004. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Education Agency is abolished September 1, 2013, rather than 2012. Deletes existing text requiring the Sunset Advisory Commission (sunset commission), in the review of TEA by the sunset commission, as required by this section, to limit its review to the appropriateness of recommendations made by the sunset commission to the 79th Legislature. Deletes existing text authorizing the sunset commission, in the sunset commission's report to the 80th Legislature, to include any recommendations it considers appropriate.

SECTION 2.02. TEXAS EMANCIPATION JUNETEENTH CULTURAL AND HISTORICAL COMMISSION. Amends Section 448.002, Government Code, as follows:

Sec. 448.002. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Emancipation Juneteenth Cultural and Historical Commission is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.03. TEXAS LOTTERY COMMISSION. Amends Section 467.002, Government Code, as follows:

Sec. 467.002. APPLICATION OF SUNSET ACT. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Lottery Commission is abolished and this chapter, Chapter 466 (State Lottery) of this code, and Chapter 2001 (Bingo), Occupations Code, expire September 1, 2013, rather than 2011.

SECTION 2.04. TEXAS BOARD OF CRIMINAL JUSTICE AND TEXAS DEPARTMENT OF CRIMINAL JUSTICE. Amends Section 492.012, Government Code, as follows:

Sec. 492.012. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Board of Criminal Justice and the Texas Department of Criminal Justice are abolished September 1, 2013, rather than 2011.

SECTION 2.05. HEALTH AND HUMAN SERVICES COMMISSION. Amends Section 531.004, Government Code, as follows:

Sec. 531.004. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Health and Human Services Commission is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.06. TAX DIVISION, STATE OFFICE OF ADMINISTRATIVE HEARINGS. Amends Section 2003.102(b), Government Code, to require the sunset commission to evaluate the tax division and present to the 83rd Legislature, rather than 82nd Legislature, a report on that evaluation and the sunset commission's recommendations in relation to the tax division.

SECTION 2.07. TRANSFER OF PURCHASING POWERS TO THE COMPTROLLER OF PUBLIC ACCOUNTS OF THE STATE OF TEXAS. Amends Sections 2151.0041(b) and (c), Government Code, as amended by H.B. 1705, Acts of the 81st Legislature, Regular Session, 2009, as follows:

(b) Requires the sunset commission to evaluate the transfer of powers and duties to the comptroller of public accounts (comptroller) under Section 2151.004(d) (relating to the transfer of powers and duties of the Texas Building and Procurement Commission to the comptroller) and under House Bill 3560, Acts of the 80th Legislature, Regular Session, 2007, and present to the 83rd Legislature, rather than 82nd Legislature, a report on its evaluation and recommendations in relation to the transfer. Requires the comptroller to perform all duties in relation to the evaluation that a state agency subject to review under Chapter 325 would perform in relation to a review.

(c) Provides that unless otherwise provided by the legislature by law, on September 1, 2013, rather than 2011, the powers and duties transferred to the comptroller under Section 2151.004(d) and under House Bill 3560, Acts of the 80th Legislature, Regular Session, 2007, are transferred to the Texas Facilities Commission (TFC); a reference in law to the comptroller relating to a power or duty transferred under this subsection means TFC; a rule or form adopted by the comptroller relating to a power or duty transferred under this subsection is a rule or form of TFC and remains in effect until altered by TFC; all obligations, contracts, proceedings, cases, negotiations, funds, and employees of the comptroller relating to a power or duty transferred under this subsection are transferred to TFC; all property and records in the custody of the comptroller relating to a power or duty transferred under this subsection and all funds appropriated by the legislature for purposes related to a power or duty transferred under this subsection are transferred to TFC; and Section 122.0011 (Transfer of Duties; Reference), Human Resources Code, and certain provisions of the Government Code expire. Deletes the reference to Section 2177.0011(Transfer of Duties; Reference) as one of the provisions that expire.

SECTION 2.08. TEXAS HEALTH SERVICES AUTHORITY. Amends Section 182.052, Health and Safety Code, as follows:

Sec. 182.052. APPLICATION OF SUNSET ACT. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Health Services Authority is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.09. DEPARTMENT OF STATE HEALTH SERVICES. Amends Section 1001.003, Health and Safety Code, as follows:

Sec. 1001.003. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Department of State Health Services is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.10. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Amends Section 40.003, Human Resources Code, as follows:

Sec. 40.003. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Department of Family and Protective Services is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.11. TEXAS COUNCIL FOR DEVELOPMENTAL DISABILITIES. Amends Section 112.023, Human Resources Code, as follows:

Sec. 112.023. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Texas Council for Developmental Disabilities is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.12. GOVERNOR'S COMMITTEE ON PEOPLE WITH DISABILITIES. Amends Section 115.005, Human Resources Code, as follows:

Sec. 115.005. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Governor's Committee on People with Disabilities is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.13. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES. Amends Section 117.003, Human Resources Code, as follows:

Sec. 117.003. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Department of Assistive and Rehabilitative Services is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.14. TEXAS COUNCIL ON PURCHASING FROM PEOPLE WITH DISABILITIES. Amends Section 122.006, Human Resources Code, to provide that unless continued in existence as provided by Chapter 325, Government Code, the Texas Council on Purchasing from People with Disabilities is abolished and this chapter expires September 1, 2013, rather than 2015.

SECTION 2.15. DEPARTMENT OF AGING AND DISABILITY SERVICES. Amends Section 161.003, Human Resources Code, as follows:

Sec. 161.003. SUNSET PROVISION. Provides that unless continued in existence as provided by Chapter 325, Government Code, the Department of Aging and Disability Services is abolished and this chapter expires September 1, 2013, rather than 2011.

SECTION 2.16. OFFICE OF FIREFIGHTERS' PENSION COMMISSIONER. Amends Section 21(h), Article 6243e, V.T.C.S., to provide that unless continued in existence as provided by Chapter 325, Government Code, the Office of Firefighters' Pension Commissioner is abolished September 1, 2013, rather than 2011.

### ARTICLE 3. SUNSET ADVISORY COMMISSION

SECTION 3.01. REVIEW OF AGENCIES REVIEWED FOR THE 81ST LEGISLATURE. Requires the sunset commission, for a state agency that was reviewed by the sunset commission in preparation for the work of the 81st Legislature in Regular Session and the abolition date of which was extended to 2011, to limit its review of the agency in preparation for the work of the 82nd Legislature in Regular Session to the appropriateness of recommendations made by the sunset commission to the 81st Legislature. Authorizes the sunset commission, in its report to the 82nd Legislature, to include any recommendations it considers appropriate. Provides that this section expires September 1, 2011.

SECTION 3.02. REVIEW OF THE ELECTRIC RELIABILITY COUNCIL OF TEXAS. Requires the sunset commission to conduct a special-purpose review of the Electric Reliability Council of Texas (ERCOT) as part of the commission's review of the Public Utility Commission of Texas (PUC) for the 82nd Legislature. Requires that the sunset commission's report to the 82nd Legislature regarding the review include an assessment of the governance, management, and operating structure of ERCOT and ERCOT's compliance with the duties and requirements placed on it by the legislature and PUC. Authorizes the sunset commission's report under this section to include any recommendations it considers appropriate. Requires ERCOT to pay the cost incurred by the sunset commission in performing the special-purpose review under this section. Requires the sunset commission to determine the cost of the review and submit a statement detailing the cost of the review on receipt of the statement. Provides that this section expires September 1, 2011.

SECTION 3.03. PAYMENT FOR REVIEW OF CERTAIN ENTITIES FOR THE 82ND LEGISLATURE. Amends Rider No. 7, Article X, S.B. No. 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act, appropriations to the House of Representatives, page X-3), by adding Subsection c, as follows:

c. Provides that the money that an entity is required by law to pay to the sunset commission to cover the costs the sunset commission incurs in performing a review of the entity is appropriated to the sunset commission for maintaining the operations of the sunset commission. Provides that money appropriated to the sunset commission under this subsection is in addition to the aggregate amounts appropriated to the sunset commission under Subsection a.

### ARTICLE 4. EFFECTIVE DATE

SECTION 4.01 EFFECTIVE DATE. Effective date: upon passage or on the 91st day after the last day of the legislative session.