

## **BILL ANALYSIS**

Senate Research Center

S.B. 713  
By: Buckingham  
Administration  
6/14/2021  
Enrolled

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

This is the Sunset schedule bill, which is filed each session to make necessary adjustments to better align agencies set for Sunset review in upcoming biennia and balance the Texas Sunset Advisory Commission's (Sunset) review workload. The bill also updates provisions in the Sunset Act to better reflect current conditions, particularly the ability to effectively operate during declared disasters or emergencies, such as COVID-19.

Adjusts agencies' Sunset review dates:

- In response to the February 2021 winter storm, the bill moves up the review of the Public Utility Commission of Texas, Electric Reliability Council of Texas, and Office of Public Utility Counsel to next biennium (2023) instead of 2025. This change also aligns these reviews with that of the Texas Commission on Environmental Quality.
- Moves the Sunset review of the Economic Development and Tourism Office and the Office of State-Federal Relations within the governor's office from 2023 to 2025. These reviews, which were scheduled to occur in 2021, were postponed due to the offices' roles in the state's COVID-19 response.
- Moves the review of the Texas Department of Insurance and its division of workers' compensation along with the Office of Public Insurance Counsel and Office of Injured Employee Counsel from 2023 to 2025 to give these agencies time to respond to changing insurance market conditions, and help balance Sunset's review workload.
- Requires a special purpose Sunset review of the Board of Veterinary Medical Examiners (board) during the 2022-2023 cycle and a limited scope state audit during the 2024-2025 audit period. Sets the board's next full Sunset review in 2029 to align it with other agencies that regulate the prescribing and dispensing of controlled substances.
- Moves the review of the Texas Real Estate Commission from 2025 to 2031 to reflect the agency's progress in implementing previous Sunset recommendations and help balance Sunset's review workload.
- Removes the Low Level Radioactive Waste Disposal Compact Commission (commission) from Sunset review.
  - The commission is an independent entity established by federal law and governed by the compact; it is not an agency of this state, leaving Sunset little ability to conduct a meaningful review or recommend significant changes.

Modifies the Sunset Act to reflect disaster and emergency procedures as a result of the pandemic:

- Authorizes Sunset to hold remote meetings and specifies requirements for these meetings.
- Specifies requirements for Sunset meetings during a declared state of disaster or emergency.
- Authorizes Sunset to exempt agencies from Sunset review due to a declared disaster or emergency.

(Original Author's/Sponsor's Statement of Intent)

S.B. 713 amends current law relating to the sunset review process and certain governmental entities subject to that 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 2023 SUNSET DATE

**SECTION 1.01. TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE.** Amends Section 481.003, Government Code, as follows:

Sec. 481.003. **SUNSET PROVISION.** Provides that the Texas Economic Development and Tourism Office (office) is subject to Chapter 325 (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the office is abolished and Chapter 481 (Texas Economic Development and Tourism Office) expires September 1, 2023, rather than September 1, 2021.

**SECTION 1.02. OFFICE OF STATE-FEDERAL RELATIONS.** Amends Section 751.003, Government Code, as follows:

Sec. 751.003. **SUNSET PROVISION.** Provides that the Office of State-Federal Relations (OSFR) is subject to Chapter 325. Provides that, unless continued in existence as provided by that chapter, OSFR is abolished and Chapter 751 (Office of State-Federal Relations) expires September 1, 2023, rather than September 1, 2021.

**SECTION 1.03. ANATOMICAL BOARD OF THE STATE OF TEXAS.** Amends Section 691.003, Health and Safety Code, as follows:

Sec. 691.003. **SUNSET PROVISION.** Provides that the Anatomical Board of the State of Texas (board) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, the board is abolished September 1, 2023, rather than September 1, 2021.

**SECTION 1.04. TEXAS COMMISSION OF LICENSING AND REGULATION; TEXAS DEPARTMENT OF LICENSING AND REGULATION.** Amends Section 51.002(a), Occupations Code, as follows:

(a) Provides that the Texas Commission of Licensing and Regulation (TCLR) and the Texas Department of Licensing and Regulation (TDLR) are subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TCLR and TDLR are abolished September 1, 2023, rather than September 1, 2021.

**SECTION 1.05. TEXAS COMMISSION ON LAW ENFORCEMENT.** (a) Amends Section 1701.002, Occupations Code, as follows:

Sec. 1701.002. **APPLICATION OF SUNSET ACT.** Provides that the Texas Commission on Law Enforcement (TCOLE) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TCOLE is abolished and Chapter 1701 (Law Enforcement Officers) expires September 1, 2023, rather than September 1, 2021.

(b) Requires the Sunset Advisory Commission (Sunset), for purposes of Section 1701.002, Occupations Code, as amended by this Act, to conduct a limited-scope review of TCOLE for the 88th Legislature.

(c) Requires that the Sunset staff evaluation and report, in conducting the limited-scope review under this section, be limited to reviewing the appropriateness of Sunset's recommendations for TCOLE made to the 87th Legislature.

(d) Authorizes Sunset's recommendations to the 88th Legislature to include any recommendation Sunset considers appropriate based on the limited-scope review conducted under this section.

SECTION 1.06. PUBLIC UTILITY COMMISSION OF TEXAS. Amends Section 12.005, Utilities Code, as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. Provides that the Public Utility Commission of Texas (PUC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter or by Chapter 39 (Restructuring of Electric Utility Industry), the PUC is abolished and Title 2 (Public Utility Regulatory Act) expires September 1, 2023, rather than September 1, 2025.

SECTION 1.07. OFFICE OF PUBLIC UTILITY COUNSEL. Amends Section 13.002, Utilities Code, as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. Provides that the Office of Public Utility Counsel (OPUC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, OPUC is abolished and Chapter 13 (Office of Public Utility Counsel) expires September 1, 2023, rather than September 1, 2025.

SECTION 1.08. SAN JACINTO RIVER AUTHORITY. Amends Section 1A(a), Chapter 426, Acts of the 45th Legislature, Regular Session, 1937, as follows:

(a) Provides that the San Jacinto River Conservation and Reclamation District (district) is subject to review under Chapter 325, but is prohibited from being abolished under that chapter. Requires that the review be conducted under Section 325.025 (River Authorities Subject to Review), Government Code, as if the district were a state agency scheduled to be abolished September 1, 2023, rather than September 1, 2021, and every 12th year after that year.

## ARTICLE 2. ENTITIES GIVEN 2025 SUNSET DATE

SECTION 2.01. TEXAS DEPARTMENT OF INSURANCE AND DIVISION OF WORKERS' COMPENSATION, TEXAS DEPARTMENT OF INSURANCE. Amends Section 31.004, Insurance Code, as follows:

Sec. 31.004. SUNSET PROVISION. (a) Provides that the Texas Department of Insurance (TDI) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TDI is abolished September 1, 2025, rather than September 1, 2023.

(b) Provides that, unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of TDI under Title 5 (Workers' Compensation), Labor Code, expire September 1, 2025, rather than September 1, 2023, or another date designated by the legislature.

SECTION 2.02. OFFICE OF PUBLIC INSURANCE COUNSEL. Amends Section 501.003, Insurance Code, as follows:

Sec. 501.003. SUNSET PROVISION. Provides that the Office of Public Insurance Counsel (OPIC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, OPIC is abolished September 1, 2025, rather than September 1, 2023.

SECTION 2.03. OFFICE OF INJURED EMPLOYEE COUNSEL. Amends Section 404.003, Labor Code, as follows:

Sec. 404.003. SUNSET PROVISION. Provides that the Office of Injured Employee Counsel (OIEC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, OIEC is abolished and Chapter 404 (Office of Injured Employee Counsel) expires September 1, 2025, rather than September 1, 2023.

## ARTICLE 3. ENTITIES GIVEN 2027 SUNSET DATE

SECTION 3.01. TEXAS PUBLIC FINANCE AUTHORITY. Amends Section 1232.072, Government Code, as follows:

Sec. 1232.072. SUNSET PROVISION. Provides that the Texas Public Finance Authority (TPFA) is subject to Chapter 325, Government Code. Provides that, unless continued in existence by that chapter, TPFA is abolished and Chapter 1232 (Texas Public Finance Authority) expires September 1, 2027, rather than September 1, 2023.

SECTION 3.02 TEXAS STATE AFFORDABLE HOUSING CORPORATION. Amends Section 2306.5521, Government Code, as follows:

Sec. 2306.5521. SUNSET PROVISION. Provides that the Texas State Affordable Housing Corporation (TSAHC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence by that chapter, TSAHC is abolished and Subchapter Y (Texas State Affordable Housing Corporation) expires September 1, 2027, rather than September 1, 2023.

SECTION 3.03. COMMISSION ON STATE EMERGENCY COMMUNICATIONS. Amends Section 771.032, Health and Safety Code, as follows:

Sec. 771.032. APPLICATION OF SUNSET ACT. Provides that the Commission on State Emergency Communications (CSEC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence by that chapter, CSEC is abolished and Chapter 771 (State Administration of Emergency Communications) expires September 1, 2027, rather than September 1, 2023.

SECTION 3.04. TEXAS RACING COMMISSION. (a) Amends Section 2021.008(a), Occupations Code, as follows:

(a) Provides that the Texas Racing Commission (TRC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, and except as provided by Subsections (b) (relating to the outstanding long-term liabilities of a racetrack association at the time that TRC is abolished) and (c) (relating to the abolishment of TRC and the expiration of Subtitle A-1), TRC is abolished and Subtitle A-1 (Texas Racing Act) expires September 1, 2027, rather than September 1, 2021.

(b) Requires TRC, not later than December 1, 2021, to replace all employees who were employed by TRC on August 31, 2021, in:

(1) an exempt position; or

(2) a position at or above salary group B27 in the Texas Position Classification Plan, 1961.

(c) Prohibits TRC from hiring or rehiring an individual to fill a position described by Subsection (b) of this section if the individual was employed by TRC in a position described by Subsection (b) of this section during the six months preceding the effective date of this Act.

#### ARTICLE 4. ENTITIES GIVEN 2029 SUNSET DATE

SECTION 4.01. CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS. Amends Section 102.003, Health and Safety Code, as follows:

Sec. 102.003. SUNSET PROVISION. Provides that the Cancer Prevention and Research Institute of Texas (CPRIT) is subject to Chapter 325, Government Code. Provides that, unless continued in existence by that chapter, CPRIT is abolished and Chapter 102 (Cancer Prevention and Research Institute of Texas) expires September 1, 2029, rather than September 1, 2023.

SECTION 4.02. STATE BOARD OF VETERINARY MEDICAL EXAMINERS. (a) Amends Section 801.003, Occupations Code, as follows:

Sec. 801.003. APPLICATION OF SUNSET ACT. Provides that the Texas Board of Veterinary Medical Examiners (TBVME) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by

that chapter, TBVME is abolished September 1, 2029, rather than TBVME is abolished and Chapter 801 (Veterinarians) expires September 1, 2021.

(b) Requires Sunset to conduct a special-purpose review of TBVME for the 88th Legislature. Provides that, in conducting the special-purpose review under this subsection:

(1) the Sunset staff evaluation and report is required to be limited to reviewing the implementation of TBVME's database system and TBVME's processes and procedures for collecting and analyzing data as recommended by Sunset to the 87th Legislature; and

(2) Sunset's recommendations to the 88th Legislature are authorized to include any recommendation Sunset considers appropriate based on the special-purpose review.

(c) Requires the state auditor to conduct an effectiveness audit of TBVME to evaluate:

(1) TBVME's implementation of the data-related recommendations made in the report on TBVME submitted by Sunset to the 85th Legislature and identified as not fully implemented in the report on TBVME submitted by Sunset to the 87th Legislature; and

(2) any additional recommendation made in Sunset's report on the special-purpose review under Subsection (b) of this section.

(d) Provides that the state auditor is prohibited from beginning the audit required by Subsection (c) of this section before December 1, 2023, and is required to prepare and submit a report of the findings of the audit to the chair and executive director of Sunset not later than December 1, 2024.

(e) Requires the state auditor to include the auditor's duties under this section in each audit plan under Section 321.013 (Powers and Duties of State Auditor), Government Code, that governs the auditor's duties for the period specified by Subsection (d) of this section.

## ARTICLE 5. ENTITIES GIVEN 2031 SUNSET DATE

SECTION 5.01. TEXAS REAL ESTATE COMMISSION. Amends Section 1101.006, Occupations Code, as follows:

Sec. 1101.006. APPLICATION OF SUNSET ACT. Provides that the Texas Real Estate Commission (TREC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TREC is abolished and Chapter 1101 (Real Estate Brokers and Sales Agents), Chapter 1102 (Real Estate Inspectors), and Chapter 1303 (Residential Service Companies) of this code and Chapter 221 (Texas Timeshare Act), Property Code, expire September 1, 2031, rather than September 1, 2025.

SECTION 5.02. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. Amends Section 1103.006, Occupations Code, as follows:

Sec. 1103.006. APPLICATION OF SUNSET ACT. Provides that the Texas Appraiser Licensing and Certification Board (TALCB) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TALCB is abolished and Chapter 1103 (Real Estate Appraisers) and Chapter 1104 (Appraisal Management Companies) expire September 1, 2031, rather than September 1, 2025.

## ARTICLE 6. ENTITIES REMOVED FROM SUNSET REVIEW

SECTION 6.01. TEXAS A&M FOREST SERVICE. Repealer: Section 88.1016 (Sunset Provision), Education Code.

## ARTICLE 7. LIMITED REVIEWS REMOVED FROM SUNSET REVIEW

SECTION 7.01. HEALTH AND HUMAN SERVICES COMMISSION, DEPARTMENT OF STATE HEALTH SERVICES, AND DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Repealer: Section 531.0206 (Limited-Scope Sunset Review), Government Code.

SECTION 7.02. THE HEALTH AND HUMAN SERVICES COMMISSION'S OFFICE OF INSPECTOR GENERAL. Repealer: Section 531.102(y) (relating to requiring Sunset to conduct a special-purpose review of the Health and Human Services Commission's office of the inspector general), Government Code.

#### ARTICLE 8. SUNSET REVIEW PROCESS

SECTION 8.01. PROCEDURES DURING DECLARED DISASTER. Amends Section 325.0125(b), Government Code, as follows:

(b) Authorizes Sunset to only exempt agencies that have been inactive for a period of two years preceding the date the agency is scheduled for abolition, that have been rendered inactive by an action of the legislature, or that Sunset determines are unable to participate in the review due to a declared disaster. Makes nonsubstantive changes.

SECTION 8.02. PROCEDURES AFTER ABOLISHMENT. Amends Section 325.017, Government Code, by adding Subsections (g) and (h), as follows:

(g) Provides that, except as provided by Subsections (a) (relating to the procedures, powers, and authority of a state agency abolished in an odd-numbered year), (e) (relating to the property and records of a state agency abolished in an odd-numbered year), and (f) (relating to the bonded indebtedness and all other obligations incurred by a state agency abolished in an odd-numbered year), all legal interests of a state agency abolished in an odd-numbered year are transferred to the Comptroller of Public Accounts of the State of Texas on the date the state agency is terminated under Subsection (a).

(h) Authorizes the governor, on the date a state agency that is abolished in an odd-numbered year is terminated under Subsection (a), to designate another state agency to administer any law previously administered by the abolished state agency that remains in effect and provides that a reference in any law to the abolished state agency means the designated state agency. Provides that the governor is not required to designate the same state agency under this subsection that is designated under Subsection (f).

#### ARTICLE 9. TRANSITION

SECTION 9.01. CONFLICT WITH OTHER LAWS. Provides that if a conflict exists between this Act and another Act of the 87th Legislature, Regular Session, 2021, that amends or repeals the sunset date of a governmental entity, the provisions of the other Act control without regard to the relative dates of enactment.

#### ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. EFFECTIVE DATE. Effective date: upon passage or September 1, 2021.